



RILEY C. DARNELL

Secretary of State

Division of Publications
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Nashville TN 37243 - 0310

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PREFACE

The Tennessee Administrative Register (T.A.R) is an official publication of the Tennessee Department of State. The *T.A.R.* is compiled and published monthly by the Department of State pursuant to *Tennessee Code Annotated, Title 4, Chapter 5*. The *T.A.R.* contains in their entirety or in summary form the following: (1) various announcements (e.g. the maximum effective rate of interest on home loans as set by the Department of Commerce and Insurance, formula rate of interest and notices of review cycles); (2) emergency rules; (3) proposed rules; (4) public necessity rules; (5) notices of rulemaking hearings and (6) proclamations of the Wildlife Resources Commission.

Emergency Rules are rules promulgated due to an immediate danger to the public health, safety or welfare. These rules are effective immediately on the date of filing and remain in effect thereafter for up to 165 days. Unless the rule is promulgated in some permanent form, it will expire after the 165-day period. The text or a summary of the emergency rule will be published in the next issue of the *T.A.R.* after the rule is filed. Thereafter, a list of emergency rules currently in effect will be published.

Proposed Rules are those rules the agency is promulgating in permanent form in the absence of a rulemaking hearing. Unless a rulemaking hearing is requested within 30 days of the date the proposed rule is published in the *T.A.R.*, the rule will become effective 105 days after said publication date. All rules filed in one month will be published in the *T.A.R.* of the following month.

Public Necessity Rules are promulgated to delay the effective date of another rule that is not yet effective, to satisfy constitutional requirements or court orders, or to avoid loss of federal programs or funds. Upon filing, these rules are effective for a period of 165 days. The text or summary of the public necessity rule will be published in the next issue of the *T.A.R.* Thereafter, a list of public necessity rules currently in effect will be published.

Once a rule becomes effective, it is published in its entirety in the *official compilation-Rules and Regulations of the State of Tennessee*. Replacement pages for the compilation are published on a monthly basis as new rules or changes in existing rules become effective.

Wildlife Proclamations contain seasons, creel, size and bag limits, and areas open to hunting and/or fishing. They also establish wildlife and/or public hunting areas and declare the manner and means of taking. Since Wildlife Proclamations are published in their entirety in the *T.A.R.*, they are not published in the official compilation-Rules and Regulations of the State of Tennessee.

Subscription Orders - The subscription rate, payable in advance, is \$ 50 per year. An order form may be found in the back of each issue of the *Tennessee Administrative Register*.

Back Issues - Some back issues of the *Tennessee Administrative Register* are available. Please send \$ 1.50 per issue along with the volume, number and date you wish to order to the address in the back of this issue.

Copies of Rules from Back Issues of the *Tennessee Administrative Register* may be ordered from the Division of Publications for 25 cents per page with \$ 1.00 minimum. Back issues presently available start with the August, 1975 edition. The mailing address of the Division of Publications is shown on the order form in the back of each issue.

Reproduction - There are no restrictions on the reproduction of official documents appearing in the *Tennessee Administrative Register*.

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ANNOUNCEMENTS

DEPARTMENT OF FINANCIAL INSTITUTIONS - 0180

ANNOUNCEMENT OF FORMULA RATE OF INTEREST

Pursuant to the provisions of Chapter 464, Public Acts of 1983, the Commissioner of Financial Institutions hereby announces that the formula rate of interest is 12.50 per cent.

This announcement is placed in the Tennessee Administrative Register for the purpose of information only and does not constitute a rule within the meaning of the Uniform Administrative Procedures Act.

DEPARTMENT OF FINANCIAL INSTITUTIONS - 0180

ANNOUNCEMENT OF MAXIMUM EFFECTIVE RATE OF INTEREST

The Federal National Mortgage Association has discontinued its free market auction system for commitments to purchase conventional home mortgages. Therefore, the Commissioner of Financial Institutions hereby announces that the maximum effective rate of interest per annum for home loans as set by the General Assembly in 1987, Public Chapter 291, for the month of February, 2000 is 10.46 per cent per annum.

The rate as set by the said law is an amount equal to four percentage points above the index of market yields of long term government bonds adjusted to a thirty (30) year maturity by the U. S. Department of the Treasury. For the most recent weekly average statistical data available preceding the date of this announcement, the published rate is 6.46 per cent.

Persons affected by the maximum effective rate of interest for home loans as set forth in this notice should consult legal counsel as to the effect of the Depository Institutions Deregulation and Monetary Control Act of 1980 (P. L. 96-221 as amended by P. L. 96-399) and regulations pursuant to that Act promulgated by the Federal Home Loan Bank Board. State usury laws as they relate to certain loans made after March 31, 1980, may be preempted by this Act.

GOVERNMENT OPERATIONS COMMITTEES

ANNOUNCEMENT OF PUBLIC HEARINGS

For the date, time, and, location of this hearing of the Joint Operations committees, call 615-741-3642. The following rules were filed in the Secretary of State's office during the month of December, 1999. All persons who wish to testify at the hearings or who wish to submit written statements on information for inclusion in the staff report on the rules should promptly notify Fred Standbrook, Suite G-3, War Memorial Building, Nashville, TN 37243-0059, (615) 741-3074.

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
12-06	Dec 16, 1999	1240 Dept of Human Services Division of Community and Field Services	Rulemaking Hearing Rules	New Rules	<i>Chapter 1240-7-10 Adult Day Care Services Standards</i> 1240-7-10-.01 Purpose of Licensure 1240-7-10-.02 Legal Basis for Licensure 1240-7-10-.03 Definitions 1240-7-10-.04 Licensing Procedure 1240-7-10-.05 Administration. 1240-7-10-.06 Program. 1240-7-10-.07 Records 1240-7-10-.08 Physical Plant. 1240-7-10-.09 Food Service. 1240-7-10-.10 Staffing. 1240-7-10-.11 Release of Information. 1240-7-10-.12 Medication Administration. 1240-7-10-.13 Transportation. 1240-7-10-.14 Safety Requirements. 1240-7-10-.15 Licensing Violations/Due Process	William B. Russell General Counsel Dept of Human Services Citizens Plaza, 15 th Fl 400 Deaderick St Nashville, TN 37248-0006 (615) 313-4731	Feb 27, 2000
12-07	Dec 14, 1999	1200 Dept of Health Division of Communicable Disease Control Rulefiling not on Disk Only 1 internet copy	Rulemaking Hearing Rules	Amendment	1200-14-4-.03 Reporting a Health Threat to Others	Jerrold Daniels Cordell Hull Bldg. 3 rd fl 425 5 th Ave N Nashville TN 37247 615-741-3111	Feb 27, 2000
12-08	Dec 14, 1999	0260 Bd of Chiropractic Examiners	Rulemaking Hearing Rules	Amendments	<i>Chapter 0260-2 General Rules and Regulations Governing the Practice of Chiropractic Examiners</i> 0260-2-.15 Disciplinary Actions, Civil Penalties, Informal Settlements, Screening Panels, and Subpoenas	Bob O'Connell, OGC 26th Fl Snodgrass Twr, 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	Feb 27, 2000
12-10	Dec 14, 1999	0400 Dept of Environment and Conservation Bureau of Environment Division of Air Pollution Control	Rulemaking Hearing Rules	Amendment	<i>Chapter 1200-3-9 Construction And Operating Permits</i> 1200-3-9-.02 Operating Permits	Mr. Tupili S. Reddy Division of Air Pollution Control 9th Fl L & C Annex 401 Church St Nashville, TN 37243-1531 (615)532-0589	Feb 27, 2000
12-12	Dec 14, 1999	1200 Dept of Health Division of Communicable and Environmental Disease Services	Emergency Rules	Amendments	<i>Chapter 1200-14-1 Communicable Diseases</i> 1200-14-1-.02 Notifiable Diseases 1200-14-1-.03 Physicians Reports 1200-14-1-.04 Health Officer's Report 1200-14-1-.41 Reports of Sexually Transmitted Diseases	Jerrold R. Daniels 3 rd Fl Cordell Hull Bldg 425 5 th Ave N Nashville, TN 37247 (615) 741-3111	Dec 14, 2000 through May 27, 2000

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
12-13	Dec 14, 1999	0480 Bd of Dispensing Opticians	Rulemaking Hearing Rules	Amendments	<i>Chapter 0480-1 Rules of the TN Board of Dispensing Opticians</i> 0480-1-.19 Board Meetings, Officers, Consultants, Records, and Minutes	John Fitzgerald, OGC 26 th Fl Snodgrass Twr 312 8 th Ave N Nashville TN 37247-0120 615-741-1611	Feb 27, 2000
12-14	Dec 14, 1999	1020 Board Of Examiners For Nursing Home Administrators	Rulemaking Hearing Rules	New Rules	<i>Chapter 1020-1 General Rules Governing Nursing Home Administrators</i> 1020-1-.01 Definitions 1020-1-.02 Feesand Interviews 1020-1-.03 Board Officers, Records, Meetings 1020-1-.04 Approval of Programs of Study 1020-1-.05 Licensure 1020-1-.06 Preceptors, Administrators In Training 1020-1-.07 Temporary Licensesand Informal Settlements 1020-1-.08 Reciprocity Licensure Process 1020-1-.09 Application Review, Approval, Denial 1020-1-.10 Examinations and Consultants 1020-1-.11 Licensure Renewal 1020-1-.12 Continuing Education 1020-1-.13 Licensure Retirement and Reactivation 1020-1-.14 107(e) Administrator Review and Administrator in Training Program 1020-1-.15 Licensure Discipline, Civil Penalties 1020-1-.16 Scope of Practice	Robbie Bell OGC 26 th Fl Snodgrass Twr 312 8 th Ave N Nashville TN 37247-0120 615-741-1611	Feb 27, 2000
12-15	Dec 8, 1999	1260 Real Estate Commission	Rulemaking Hearing Rules	Amendments	<i>Chapter 1260-1 Licensing</i> 1260-1-.05 Administrative Fees 1260-1-.12 Fees for licenses <i>Chapter 1260-6 Time Share Programs</i> 1260-6-.12 Registration Fees	Reid A. Brogden Dept of Commerce and Insurance 312 8 th Ave N 25 th Fl Snodgrass Bldg Nashville, TN 37243-0569 (615) 741-3072	Feb 21, 2000
12-20	Dec 21, 1999	1730 Board of Veterinary Medical Examiners	Rulemaking Hearing Rules	New Rules	<i>Chapter 1730-4 General Rules Governing Certified Animal Control Agencies</i> 1730-4-.01 Definitions 1730-4-.02 Necessity of Certification 1730-4-.03 Qualifications for Certification 1730-4-.04 Procedure for Certification of an	Peggy DePriest, OGC 26 th Fl Snodgrass Twr, 312 8th Ave N Nashville, TN 37247-0120, (615)741-1611	March 5, 2000

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP- TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
12-20, cont.					Animal Control Agency 1730-4-.05 Application Review, Approval, Denial 1730-4-.06 Fees 1730-4-.07 Requirements for Inspections 1730-4-.08 Renewal Application/Reinstatement of Administratively Revoked Certificate. 1730-4-.09 Recordkeeping 1730-4-.10 Certificate 1730-4-.11 Unprofessional Conduct 1730-4-.12 Disciplinary Actions and Civil Penalties 1730-4-.13 Dispensing, or Otherwise Distributing Pharmaceuticals <i>Chapter 1730-5 General Rules Governing Certified Animal Euthanasia Technicians</i> 1730-5-.01 Definitions 1730-5-.02 Necessity of Certification 1730-5-.03 Qualifications for Certification 1730-5-.04 Procedure for Certification 1730-5-.05 Application Review, Approval, Denial 1730-5-.06 Fees 1730-5-.07 Reserved 1730-5-.08 Renewal Application/Reinstatement of Administratively Revoked Certificate 1730-5-.09 Board Consultants, Records and Complaints 1730-5-.10 Certificate 1730-5-.11 Unprofessional Conduct 1730-5-.12 Disciplinary Actions and Civil Penalties 1730-5-.13 Change of Name and/or Address		
12-22	Dec 28, 1999	1370 Board of Communication Disorders and Sciences	Rulemaking Hearing Rules	Repeals and New Rules	<i>Chapter 1370-2 General Rules Governing Hearing Instrument Specialists</i> 1370-2-.01 Definitions 1370-2-.02 Scope of Practice 1370-2-.03 Necessity of License 1370-2-.04 Qualifications for Licensure 1370-2-.05 Procedures for Licensure 1370-2-.06 Fees 1370-2-.07 Application Review, Approval, Denial and Interviews 1370-2-.08 Examinations	Earl Roberts 26 th Fl Snodgrass Twr 312 8 th Ave N Nashville, TN 37247-0120 741-1611	March 12, 2000

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
12-22, cont.					1370-2-.09 Renewal of Licensure 1370-2-.10 Supervision 1370-2-.11 Retirement and Reactivation of License 1370-2-.12 Continuing Education 1370-2-.13 Unethical Conduct 1370-2-.14 Apprenticeship Training Program 1370-2-.15 Disciplinary Actions and Civil Penalties 1370-2-.16 License 1370-2-.17 Change of Address and/or Name 1370-2-.18 Mandatory Release of Client Records 1370-2-.19 Council Meetings, Officers, Consultants, Records and Minutes 1370-2-.20 Advertising 1370-2-.21 Records, Services and Tests		
12-23	Dec 28, 1999	1200 Dept of Health Board of Alcohol and Drug Abuse Counselors	Rulemaking Hearing Rules	New Rules	<i>Chapter 1200-30-1 Rules Governing Licensure of Alcohol and Drug Abuse Counselors</i> 1200-30-1-.01 Definitions 1200-30-1-.02 Scope of Practice 1200-30-1-.03 Necessity of Licensure 1200-30-1-.04 Qualifications for Licensure 1200-30-1-.05 Licensure Process 1200-30-1-.06 Fees 1200-30-1-.07 Application Review, Approval, Denial, Interview 1200-30-1-.08 Examinations 1200-30-1-.09 Renewal of License 1200-30-1-.10 Supervision 1200-30-1-.11 Licensure Retirement and Reactivation 1200-30-1-.12 Continuing Education 1200-30-1-.13 Professional Ethics 1200-30-1-.14 License 1200-30-1-.15 Disciplinary Actions and Declaratory Orders 1200-30-1-.16 Board Meetings, Officers, Consultants and Records 1200-30-1-.17 Advertising	Donna K. Tidwell, OGC 26 th Fl Snodgrass Twr 312 8 th Ave N Nashville, TN 37247-0120(615) 741-1611	March 12, 2000
12-24	Dec 29, 1999	1200 Dept of Health Board of Alcohol and Drug Abuse Counselors	Rulemaking Hearing Rules	Amendments	Chapter 1200-30-1 Rules Governing Licensure of Alcohol and Drug Abuse Counselors 1200-30-1-.15 Disiplinary Actions	Donna K. Tidwell, OGC 26 th Fl Snodgrass Twr 312 8 th Ave N Nashville, TN 37247-0120(615) 741-1611	March 13, 2000

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
12-26	Dec 30, 1999	1200 Dept of Health Bureau of Health Services Administration Division of Maternal and Child Health	Rulemaking Hearing Rules	Repeals and New Rules	<i>Chapter 1200-15-1 Phenylketonuria, Hypothyroidism, and Other Metabolic Defects</i> 1200-15-1-.01 Tests 1200-15-1-.02 Institutions or individuals responsible for tests 1200-15-1-.03 Genetic Defects Pamphlet 1200-15-1-.04 Local health Dept must Assist Dept of Health 1200-15-1-.05 Fees For Tests	Jerrold Daniels Cordell Hull Bldg, 3 rd Fl 425 5 th Ave N Nashville, TN 37247 Telephone (615) 741-3111	March 14, 2000
12-29	Dec 30, 1999	1200 Dept of Health Bureau of Health Services	Public Necessity Rules	Repeal and New rules	<i>Chapter 1200-15-2 Special Supplemental Nutrition Program For Women, Infants and Children</i> 1200-15-2-.01 Definitions 1200-15-2-.06 Participant Abuse 1200-15-2-.02 Purpose 1200-15-2-.07 Merchant Contracts 1200-15-2-.03 Eligibility 1200-15-2-.08 Merchant Abuse 1200-15-2-.04 Issuance of Vouchers 1200-15-2-.09 Non-Discrimination 1200-15-2-.05 Voucher Redemption	Jerrold R. Daniels Dept of Health Cordell Hull Bldg, 3rd Fl. 425 Fifth Ave, N Nashville, TN 37247 615-741-3111	Dec 30, 1999 through June 12, 2000
12-30	Dec 30, 1999	0400 Dept of Environment and Conservation Bureau of Environment Division of Air Pollution Control	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-3-2 Definitions</i> 1200-3-2-.01 General Definitions	Mr.Tupili S. Reddy Air Pollution Control 9th Fl L & C Annex 401 Church St Nashville, TN 37243-1531 (615)532-0589	March 14, 2000
12-31	Dec 30, 1999	1220 TN Regulatory Authority Consumer Services Division	Public Necessity Rules	New Rules	1220-4-11-.01 Definitions 1220-4-11-.02 General Telephone Solicitation Regulations 1220-4-11-.03 Establishing and Maintaining the TN Do Not Call Register 1220-4-11-.04 Telephone Solicitor's Access to the TN Do Not Call Register 1220-4-11-.05 Consumer Registration with the TN Do Not Call Register 1220-4-11-.06 Public Education about the TN Do Not Call Register 1220-4-11-.07 Violation of the TN Do No Call Register 1220-4-11-.08 Enforcement Provisions	Richard Collier TN Regulatory Authority 460 James Robertson Pkwy Nashville, TN 37343 (615) 741-2904	Dec 30, 1999 through June 12, 2000

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP- TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
12-32	Dec 30, 1999	0400 Dept of Environment and Conservation Bureau of Environment Division of Air Pollution Control	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-3-9</i> <i>Construction and Operating Permits</i> 1200-3-9-.01 Construction Permits 1200-3-9-.02 OPERATING PERMITS	Mr. Tupili S. Reddy Air Pollution Control 9th Fl L & C Annex 401 Church St Nashville, TN 37243-1531 (615)532-0589	March 14, 2000

HEALTH FACILITIES COMMISSION - 0720**NOTICE OF BEGINNING OF REVIEW CYCLE****APPLICATIONS WILL BE HEARD AT THE FEBRUARY 23, 2000 HEALTH FACILITIES COMMISSION MEETING
EXCEPT AS OTHERWISE NOTED.**

**Denotes applications being placed on the Consent Calendar.*

+Denotes competing applications.

This is to provide official notification that the Certificate of Need applications listed below have begun their official 90-day review cycle effective December 1, 1999. The review cycle includes a 60-day period of review by the Division of Assessment and Planning within the Tennessee Department of Health or their designated representative. During this 60-day period, the appropriate agency may hold a public hearing, if requested, with respect to each application and will conclude the period with a written report. *Pursuant to Public Chapter 120, Acts of 1993, certain unopposed applications may be placed on a "consent calendar." Such applications are subject to a 60-day review cycle, including a 30-day period of review by the Division of Assessment and Planning or their designee. Applications intended to be considered on the consent calendar, if any, are denoted by an asterisk.* For more information concerning each application or its review cycle, you may contact the Tennessee Department of Health/Division of Assessment & Planning (615/741-0244), their designee, or the Health Facilities Commission (615/741-2364).

NAME AND ADDRESS	DESCRIPTION
Vanderbilt University Hospital Vanderbilt University Medical Center D-3300, Medical Center North Nashville (Davidson Co.), TN 37232 Norman B. Urmy – (615)—322-2151 CN9910-091	The construction of a new freestanding 206-bed Children's Hospital on the Vanderbilt University Hospital campus. The hospital will house 152 replacement beds and 54 new beds. With the exception of a 10-bed NICU, all children's services will be relocated to the new site. The project will increase the licensed bed capacity of Vanderbilt University Hospital from 658 beds to 712 beds. Major medical equipment will include one MRI scanner and two CT scanners. \$ 189,000,000
Stones River Hospital 324 Doolittle Road Woodbury (Cannon Co.), TN 37190 William M. Patterson – (615)—563-7200 CN9911-099	The initiation of mobile MRI services one day per week. \$ 1,003,000
Baptist Hospital of Cocke County, Inc. 435 Second Street Newport (Cocke Co.), TN 37821 Wayne Buckner – (423)—625-2133 CN9911-100	The conversion of mobile MRI services to a fixed service and the acquisition of an MRI scanner. The project also includes renovation and expansion of the Radiology Department. \$ 1,569,200

NAME AND ADDRESS

Urology Surgery Center 2011 Church Street, 6th Floor
Nashville (Davidson Co.), TN 37203 Jerry W. Taylor
—(615)—726-1200 CN9911-101

DESCRIPTION

The relocation of its existing licensed ambulatory surgery center from its present location at 2011 Church Street, Nashville, Tennessee to 2901 Charlotte Avenue, Nashville, Tennessee. The facility will also add one (1) additional operating room and two (2) additional procedure rooms. The surgery center will still be limited to urological procedures.
\$4,142,500

BOARD OF NURSING - 1000

The Board of Nursing hereby gives notice of withdrawal of subparagraph (6) (c) of rule 1000-1-.04, Discipline of Licensees, Unauthorized Practice of Professional Nursing, Civil Penalties, Screening Panels, Subpoenas, Advisory Rulings, and Declaratory Orders and subparagraph (6) (c) of rule 1000-2-.04, Discipline of Licensees, Unauthorized Practice of Practical Nursing, Civil Penalties, Screening Panels, Subpoenas, Advisory Rulings, and Declaratory Orders filed with the Department of State on the 26th day of October, 1999 to have become effective on the 9th day of January, 2000.

The notice of withdrawal of rules was properly filed in the Department of State on the 4th day of December, 1999, and will become effective on the 4th day of December, 1999. (12-11)

EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

(For the text of the Emergency rules see issue of T.A.R. cited)

- 1240 - Department of Human Services - Community Services Division - Emergency rules regarding procedures which will help ensure the safety of children in vehicles utilized to transport children in child welfare agencies licensed by the Department, Chapter 1240-4-1 Standards for Group Day Care Homes, rule 1240-4-1-.02, Organization and Administration, T.A.R., volume 25 number 9 (September, 1999). Filed August 12, 1999; effective through January 23, 2000. (08-13)
- 1240 - Department of Human Services - Community Services Division - Emergency rules regarding procedures which will help ensure the safety of children in vehicles utilized to transport children in child welfare agencies licensed by the Department, Chapter 1240-4-3 Licensure Rules for Child Care Centers Serving Pre-School Children, rule 1240-4-3-.06, Organization and Administration, T.A.R., volume 25 number 9 (September, 1999). Filed August 9, 1999; effective through January 20, 2000. (08-04)
- 1240 - Department of Human Services - Community Services Division - Emergency rules regarding procedures which will help ensure the safety of children in vehicles utilized to transport children in child welfare agencies licensed by the Department, Chapter 1240-4-4 Standards for Family Day Care Homes, rule 1240-4-4-.02, Organization and Administration, T.A.R., volume 25 number 9 (September, 1999). Filed August 12, 1999; effective through January 23, 2000. (08-12)
- 1240 - Department of Human Services - Community Services Division - Emergency rules regarding procedures which will help ensure the safety of children in vehicles utilized to transport children in child welfare agencies licensed by the Department, Chapter 1240-4-6 Licensure Rules for Child Care Center Serving School-Age Children, rule 1240-4-6-.06, Organization and Administration, T.A.R., volume 25 number 9 (September, 1999). Filed August 9, 1999; effective through January 20, 2000. (08-05)

DEPARTMENT OF HEALTH – 1200
DIVISION OF COMMUNICABLE AND ENVIRONMENTAL DISEASE SERVICES

STATEMENT OF NECESSITY REQUIRING EMERGENCY RULES

For a copy of this emergency rule, contact Dr. William Moore, Department of Health, Cordell Hull Building, 4th Floor, 425 5th Avenue, North, Nashville, Tennessee 37247 (Telephone 615/741-7247)

Tennessee Code Annotated Title 4, Chapter 3, and Title 68, Chapter 5 (Preventive Disease) requires the Department of Health to monitor and assess the occurrences of communicable diseases in Tennessee and take actions to minimize their transmission and spread. The attached four sections of the Communicable Disease Rules (1200–14–1) are being amended in order to update the notifiable disease and conditions list that is applicable to all health care providers, facilities, and laboratories.

The surveillance of diseases and conditions is a dynamic process that requires frequent revision in order for the Department to be able to detect emerging disease problems, investigate, provide intervention, monitor, and promote the most effective prevention and treatment methods. Many changes have occurred nationally and in Tennessee over the past few months requiring that this list of notifiable diseases be revised to optimize public health assessment and response. Some of the major factors affecting the list are as follows.

- a) The Centers for Disease Control and Prevention (CDC) has announced a list of diseases that may serve as possible bioterrorism indicators. These are being added with immediate telephonic notification of the health department required. Bioterrorist activity associated with the change of the millenium necessitate the addition of new diseases to the list of reportable diseases. In order to properly disseminate information to health care providers, hospitals, and medical laboratories detailing the reporting of bioterrorist associated disease, these rules must be put in place immediately.
- b) The CDC has modified the core diseases in the National Notifiable Disease Surveillance System which requires changes in all states in order to have uniform national disease surveillance which will go into effect January 1, 2000.

Wendy J. Long, M. D.
Assistant Commissioner
Department of Health

EMERGENCY RULES
OF
DEPARTMENT OF HEALTH
DIVISION OF COMMUNICABLE AND ENVIRONMENTAL DISEASE SERVICES

CHAPTER 1200–14–1
COMMUNICABLE DISEASES

AMENDMENTS

1200–14–1–.02 Notifiable Diseases is amended by deleting the existing language in its entirety and inserting the following new language:

1200–14–1–.02 NOTIFIABLE DISEASES.

The following diseases and conditions are declared to be communicable and/or dangerous to the public and are to be reported to the local health officer or local health department by all physicians, laboratories, and other persons knowing of or suspecting a case in accordance with the provision of the statutes and regulations governing the control of communicable diseases in Tennessee.

(a) Acquired Immundeficiency Syndrome (AIDS)‡

(b) Anthrax**

(c) Botulism

1. Foodborne**

2. Wound *

3. Infant

(d) Brucellosis **

(e) Campylobacteriosis

(f) Chancroid

(g) Chlamydia trachomatis

(h) Cholera

(i) Cyclospora

(j) Cryptosporidiosis

(k) Diphtheria*

(l) Disease Outbreaks*

1. Foodborne

2. Waterborne

3. All other

(m) Ehrlichiosis

(n) Encephalitis, Arboviral*

* = Immediate telephonic reporting required followed by a written report

** = Possible bioterrorism indicator: Immediate telephonic reporting required followed by a written report

‡ = Requires special confidential reporting to designated health department personnel

† = Laboratories required to report all blood lead test results meeting criteria

1. California/LaCrosse Serogroup
 2. Eastern Equine
 3. St. Louis
 4. Venezuelan Equine**
 5. Western Equine
 6. West Nile-like
- (o) Escherichia coli 0157:H7
- (p) Giardiasis (acute)
- (q) Gonorrhea
- (r) Group A Streptococcal Invasive Disease *
- (s) Group B Streptococcal Invasive Disease *
- (t) Haemophilus Influenzae Invasive Disease*
- (u) Hantavirus Disease*
- (v) Hemolytic Uremic Syndrome (HUS)
- (w) Hepatitis, Viral
1. Type A (acute) *
 2. Type B (acute)
 3. BsAg positive pregnant female
 4. Type C (Acute)
- (x) Human Immunodeficiency Virus (HIV)‡
- (y) Influenza – number of cases (weekly)
- (z) Lead Poisoning (blood lead levels ≥ 10 ug/dl for children 0-72 months of age)†
- (aa) Legionellosis

* = Immediate telephonic reporting required followed by a written report

** = Possible bioterrorism indicator: Immediate telephonic reporting required followed by a written report

‡ = Requires special confidential reporting to designated health department personnel

† = Laboratories required to report all blood lead test results meeting criteria

- (bb) Leprosy (Hansen Disease)
- (cc) Listeriosis*
- (dd) Lyme Disease
- (ee) Malaria
- (ff) Measles*
- (gg) Meningococcal Disease*
- (hh) Meningitis – Other Bacterial*
- (ii) Mumps*
- (jj) Pertussis (Whooping Cough)*
- (kk) Plague **
- (ll) Poliomyelitis*
- (mm) Psittacosis
- (nn) Q Fever**
- (oo) Rabies
 - 1. Human*
 - 2. Animal
- (pp) Ricin Poisoning **
- (qq) Rocky Mountain Spotted Fever
- (rr) Rubella and Congenital Rubella Syndrome*
- (ss) Salmonellosis
 - 1. Typhoid Fever*
 - 2. Other forms
- (tt) Shiga-like Toxin positive stool

* = Immediate telephonic reporting required followed by a written report

** = Possible bioterrorism indicator: Immediate telephonic reporting required followed by a written report

‡ = Requires special confidential reporting to designated health department personnel

† = Laboratories required to report all blood lead test results meeting criteria

(uu) Shigellosis

(vv) Smallpox **

(ww) Staphylococcal Enterotoxin B Pulmonary Poisoning **

(xx) Streptococcus pneumoniae Invasive Disease

1. Penicillin resistant

2. Penicillin sensitive

(yy) Syphilis

(zz) Tetanus

(aaa) Toxic Shock Syndrome

1. Staphylococcal

2. Streptococcal

(bbb) Trichinosis

(ccc) Tuberculosis – all forms

(ddd) Tularemia**

(eee) Vancomycin Resistant Enterococci (VRE)

(fff) Varicella deaths

(ggg) Vibrio infections

(hhh) Viral Hemorrhagic Fever **

(iii) Yellow Fever

(jjj) Yersiniosis

Authority: T.C.A. §§4–5–202 and 68–5–104 (a).

1200–14–1–.03 Physicians Reports is amended by deleting the existing language in its entirety and inserting the following new language:

* = Immediate telephonic reporting required followed by a written report

** = Possible bioterrorism indicator: Immediate telephonic reporting required followed by a written report

‡ = Requires special confidential reporting to designated health department personnel

† = Laboratories required to report all blood lead test results meeting criteria

1200–14–1–.03 PHYSICIANS REPORTS.

- (1) Whenever any physician examines or treats any person known or suspected by him to be affected with any of the diseases or conditions declared to be notifiable by these regulations, he shall give notice of such disease as follows: For diseases for which immediate telephone reporting is required, he shall telephone as soon as possible and no later than twelve hours, to the local health department in the county, district or region in which such physician practices or to the Tennessee Department of Health giving the name, age, sex, race, and address of the patient and the name of the known or suspected disease or conditions.
- (2) For all of the diseases and conditions listed (including those for which telephonic communication is required), written notification using forms provided by the Department or other suitable means shall be made each week to the local health department in the county, district, or region in which the physician practices or to the Tennessee Department of Health giving the name, age, sex, race and address of the patient and the name of the known or suspected disease or condition. Influenza shall be reported weekly only by number of cases.
- (3) For diseases for which a confidential report is required, the person reporting must enclose the information in an opaque envelope for mailing and must not use a post card reporting method.

Authority: *T.C.A. §§4–5–202 and 68–5–104(a).*

1200–14–1–.04 Health Officer's Report is amended by deleting the existing language in its entirety and inserting the following new language:

1200–14–1–.04 HEALTH OFFICER'S REPORT.

- (1) No later than the last working day of each week, all local health departments shall mail to the Department any reports of notifiable diseases received during the week.
- (2) Whenever a case or suspected case of a disease for which a telephone report is required and whenever a cluster or suspected cluster of a waterborne, foodborne, industry related, or other disease occurs, the local health department shall immediately report by telephone such information to the Tennessee Department of Health, Division of Communicable and Environmental Disease Services. The report shall contain the facts and circumstances related to such illnesses and conditions.
- (3) Local health departments shall report to the Regional or State Health Department changes of address of patients with active tuberculosis or AIDS on forms distributed by the Department.

Authority: *T.C.A. §§4–5–202 and 68–5–104(a).*

1200–14–1–.41 Reports of Sexually Transmitted Diseases is amended by deleting the existing language in its entirety and inserting the following new language:

1200–14–1–.41 REPORTS OF SEXUALLY TRANSMITTED DISEASES.

- (1) The following diseases are declared to be sexually transmitted diseases and, upon their diagnosis or treatment, are subject to reporting requirements as designated in *T.C.A. §68–10–101*.

- (a) Acquired Immune Deficiency Syndrome (AIDS)*
 - (b) Gonorrhea*
 - (c) Syphilis (by stage)*
 - (d) Chlamydia trachomatis *
 - (e) Human Immunodeficiency Virus (HIV)*
 - (f) Hepatitis B Virus (HBV)*
- (2) All information and reports concerning persons infected with sexually transmitted diseases shall be confidential and shall be inaccessible to the public.
- (3) In accordance with *T.C.A. §37-1-403*, any physician or other person diagnosing or treating venereal herpes or any of these reportable sexually transmitted diseases in a child 13 years of age or younger should make a confidential written report of the case to the Department.

Authority: *T.C.A. §§ 4-5-202, 37-1-403(G), 68-1-103, 68-1-106, 68-10-101, 68-10-112, 68-10-113, and 68-29-107.*

The emergency rules set out herein were properly filed in the Department of State on the 14th day of December, 1999, and will become effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the 27th day of May, 2000. (12-12)

* Confidential (opaque envelope) report required

PUBLIC NECESSITY RULES

PUBLIC NECESSITY RULES NOW IN EFFECT

(For the text of the Public Necessity rules see issue of T.A.R. cited)

- 0240 - Department of Correction - Adult Services Division - Public necessity rules establishing criteria for the selection of media witnesses to executions, Chapter 0420-3-4 Selection of News Media Representatives to Attend an Execution of a Death Sentence, T.A.R, Volume 25, number 10 (October 1999) - Filed September 1, 1999; effective through February 13, 2000. (09-01)

DEPARTMENT OF HEALTH – 1200

NUTRITION SERVICES SECTION

STATEMENT OF NECESSITY REQUIRING PUBLIC NECESSITY RULES

Tennessee Code Annotated § 68-1-106 authorizes operation of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) administered by the Tennessee Department of Health. The purpose of the Program is to provide supplemental foods, nutrition education, and breastfeeding promotion to eligible persons. The foods are purchased by participants utilizing vouchers at 1,200 contracted merchants across the state. The funding for implementing these requirements is 100% federal.

Federal regulations (7 CRF part 246), published March 18, 1999, in the Federal Register, require that the Department of Health promulgate rules to implement new provisions. This will permit the Department to enact required merchant sanctions, impose civil money penalties in lieu of disqualification, and issue State sanctions on merchants for reasons of program abuse. Immediate promulgation of these public necessity rules is needed in order to allow Central Office WIC Program staff to train staff in the Program's fourteen regional offices. The regional staff in turn has the responsibility of informing the merchants and handling amendment of their contracts with the Department. This lengthy time-consuming process must be completed no later than May 17, 2000, in order to avoid federal penalties or loss of federal funds. Therefore, pursuant to Tennessee Code Annotated § 4-5-209(a)(2), promulgation of Public Necessity Rules is necessary in order to timely comply with the requirement described in the federal regulations cited above.

Wendy J. Long, M.D.
Assistant Commissioner
Department of Health

For a copy of this rule, contact Jerry Orenstein, Department of Health, Nutrition Services Section, Cordell Hull Building, Fifth Floor, 425 Fifth Avenue, North, Nashville, Tennessee 37247-5310 (telephone 615-532-8177).

**PUBLIC NECESSITY RULES
OF
TENNESSEE DEPARTMENT OF HEALTH
BUREAU OF HEALTH SERVICES**

**CHAPTER 1200-15-2
SPECIAL SUPPLEMENTAL NUTRITION PROGRAM
FOR WOMEN, INFANTS AND CHILDREN**

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1200-15-2-.01 DEFINITIONS.

- (1) The following definitions shall apply to this part and all contracts, guidelines, instructions, forms and other documents related hereto.
 - (a) “Adjunctive eligibility” means automatic income eligibility for WIC, based on eligibility for another federal program as defined in 7 CFR (Code of Federal Regulations) Part 246.
 - (b) “Approved foods” means types, brands, or varieties of foods meeting the Program requirements established under the federal regulations found in 7 CFR Part 246. Foods selected by the Department for the Program in Tennessee can be further limited due to cost, availability, packaging, or other reasons as defined in the current Tennessee Food Package Policy, as provided by Central Office to food manufacturers and other interested parties needing this information.
 - (c) “Breastfeeding woman” means a participant who is breastfeeding her baby up to twelve months after delivery.
 - (d) “Central Office” means the office site operated by the Department which is responsible for the overall operation of the Program.
 - (e) “Child” means a person one to five years of age.
 - (f) “Civil money penalty” means a money penalty assessed in lieu of disqualification, as described in 7 CFR Part 246.
 - (g) “Competitive prices” means shelf prices for approved foods that are competitive with the WIC merchants in the same peer group and region within the state.
 - (h) “Department” means the Tennessee Department of Health.
 - (i) “Disqualification” means the withdrawal of authorization as a result of fraud, abuse, violation of federal regulations, or continued failure to meet Program requirements prior to the expiration of a WIC Merchant Contractual Agreement.

- (j) “Dual participation” means simultaneous participation in either the Program in more than one clinic and/or region, or participation in the Program and in the Commodity Supplemental Food Program.
- (k) “Food instrument” means a negotiable check with a limited period of validity used by a Program participant to purchase approved foods at an authorized WIC merchant.
- (l) “Food package” means the types and amounts of approved foods based on the nutritional needs of the participant.
- (m) “Grocery store” means a retail store whose primary business is the sale of food. Its purpose is to provide participants with a selection of approved foods that meets the Program’s minimum stock requirement.
- (n) “Income” means gross income before taxes. Source of income is further defined in the WIC Manual.
- (o) “Infant” means a baby up to twelve months of age.
- (p) “Lock-in status” means vouchers must be presented to a merchant specified by the Program, on a specific day, mutually agreed upon between the Program and the participant.
- (q) “Merchant” means a retail grocery store or pharmacy authorized by the Department to redeem food instruments.
- (r) “Minimum stock requirement” means the types, varieties, brands, and quantities of approved foods a grocery store is required to keep available as established by the Department for the Program.
- (s) “Nutritional risk” as defined by federal regulation means:
 - 1. detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements;
 - 2. other documented nutritionally related medical conditions;
 - (i) dietary deficiencies that impair or endanger health; or
 - (ii) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions.
- (t) “Participant” means a pregnant woman, breastfeeding woman, postpartum woman, infant, or child who is receiving supplemental foods or food instruments under the Program.
- (u) “Participation” means a monthly count of persons who have received supplemental foods or food instruments.
- (v) “Pattern” means an act that occurs two (2) or more times.
- (w) “Peer group” means a group of WIC merchants who have common characteristics and are located in the same geographic region. The characteristics are type of business, type of ownership, total sales volume, and pricing of approved foods.
- (x) “Pharmacy” means a retail establishment licensed by the State of Tennessee to operate as a pharmacy. Its purpose for authorization in the Program is to provide Special Formulas defined in the WIC Manual. These formulas are issued to a participant when prescribed by written order from a physician or nurse clinician under physician supervision.

- (y) “Postpartum woman” means a participant who is not breastfeeding her baby, but may remain on the Program for up to six months after delivery.
- (z) “Program” means the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) authorized by Section 17 of the Child Nutrition Act of 1966, as amended.
- (aa) “Proxy” means a person designated, in writing, by the participant to receive the vouchers and shop for the supplemental foods issued on the voucher.
- (bb) “Regional Office” means an administrative site operated by or under contract with the Department to provide Program services for its designated geographic area.
- (cc) “Retailer Application for Authorization to Participate in the Tennessee WIC Program” means the standard application form and attachments required by the Department for a merchant to participate in the Program. The application must be signed by the Department’s authorized designee, as well as an owner or an owner’s authorized designee.
- (dd) “Sanction” means a disciplinary action taken by the Department.
- (ee) “Trafficking” means the exchange of WIC vouchers for cash.
- (ff) “USDA” means the United States Department of Agriculture.
- (gg) “Vendor” – see “Merchant”
- (hh) “Vendor Representative” means the regional office staff person who is responsible for contracting the WIC merchant and assuring compliance with the WIC Merchant Contractual Agreement.
- (ii) “Violation” means an act of non-compliance that occurs at least one (1) time.
- (jj) “Voucher stamp” means a device provided by the Department which imprints the WIC merchant’s name and assigned number on redeemed vouchers.
- (kk) “Voucher” – see “Food instrument”
- (ll) “WIC food”–see “Approved foods”
- (mm) “WIC Food List” means the current list of approved foods as provided by the Department to participants and contracted grocery stores.
- (nn) “WIC Grocer Price Report Card” means the form submitted by contracted grocery stores at time of application and then on a periodic basis as required by the Department to report prices of specific approved foods.
- (oo) “WIC Manual” means the current publication produced by the Department that contains Program information, policies, procedures, sample reports, and forms for use by Program staff in the regional offices and local health department clinics.
- (pp) “WIC Merchant Contractual Agreement” means the standard written departmental agreement that specifies the terms and conditions for a WIC merchant to participate in the Program. (The agreement must be signed by an owner or an owner’s authorized designee and the Department’s authorized designee. See Retailer Application.)

- (qq) “WIC Merchant Handbook” means the current publication produced by the Department that contains Program information, policies, and procedures to be followed by WIC merchants.
- (rr) “WIC Merchant Management Manual” means the current publication produced by the Department that contains Program information, policies, procedures, sample reports and forms for use by Program staff in the Central Office and the Regional Offices.

Authority: *T.C.A. §§ 4-5-202, 4-5-209, and 68-1-106.*

1200-15-2-.02 PURPOSE.

- (1) WIC is the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) administered by the Tennessee Department of Health. The purpose of the Program is to provide supplemental foods, nutrition education, and breastfeeding promotion to eligible persons. The Program serves as an adjunct to good health care during critical times of human growth and development.

Authority: *T.C.A. §§ 4-5-202, 4-5-209, and 68-1-106.*

1200-15-2-.03 ELIGIBILITY.

- (1) In order to participate in the Program, an applicant must:
 - (a) be a resident of the state of Tennessee, and
 - (b) have income not exceeding 185% of the USDA poverty income guidelines for family size published annually in the Federal Register or have adjunctive eligibility as defined in 7 CFR Part 246 of the federal regulations, and
 - (c) be found to be at nutritional risk as defined in 7 CFR Part 246 of the federal regulations.
- (2) When resources are limited, participants will be served within priority groups as defined in 7 CFR Part 246 of the federal regulations.

Authority: *T.C.A. §§ 4-5-202, 4-5-209, and 68-1-106.*

1200-15-2-.04 ISSUANCE OF VOUCHERS

- (1) Vouchers shall only be issued to a participant, a parent/caretaker, or an authorized proxy designated by the participant in writing in accordance with policy as described in the WIC Manual.
- (2) Food packages are based on nutritional needs of participants and will be issued in accordance with policy as described in the WIC Manual.

Authority: *T.C.A. §§ 4-5-202, 4-5-209, and 68-1-106.*

1200–15–2–.05 VOUCHER REDEMPTION.

- (1) Vouchers must be redeemed only for approved foods as described in the WIC Manual.
- (2) Vouchers must be redeemed only up to the amount of food specified.
- (3) Prices charged for approved foods must be the same or lower than the current prices charged to other customers.
- (4) Vouchers must be redeemed within the month for which they are valid and must be deposited within sixty (60) days from the last day valid.
- (5) The WIC merchant shall not collect payment from participants for vouchers which are returned from the bank unpaid.
- (6) The cost of a food package redeemed by a WIC merchant is controlled by the prices submitted periodically by the WIC merchant, as described in WIC Merchant Contractual Agreement.
- (7) Vouchers can be redeemed only up to the amount of the prices submitted by the WIC merchant to the Program.
- (8) The Department may submit to the merchant a claim for amounts in excess of the amount of the prices submitted by the WIC merchant to the Program.

Authority: *T.C.A. §§ 4–5–202, 4–5–209, and 68–1–106.*

1200–15–2–.06 PARTICIPANT ABUSE.

- (1) A participant may be disqualified up to three months for dishonesty in the use of vouchers; for providing false information for certification including dual participation; for sale of supplemental food or food instruments to, or exchange with, other individuals or entities; for receipt from WIC merchants of cash or credit toward purchase of unauthorized food or other items; or for physical abuse or threat of physical abuse of clinic or WIC merchant staff.
- (2) A participant may be required to repay the value of any food received in excess of the specified quantity issued.
- (3) A participant will be given an opportunity for a hearing prior to any adverse action. The participant must request a hearing within sixty (60) days of the notice of the adverse action. All hearings will be conducted in accordance with the Uniform Administrative Procedures Act, *T.C.A. §4–5–101, et seq.*
- (4) When the eligible participant is an infant or child, and the parent/caretaker is guilty of the violations set forth in item (1) of this section, further participation by the infant or child shall be on a lock-in basis. The adult person who is responsible for the child or infant shall be required to present vouchers at a program designated WIC merchant on a specific day of the month. The day of the month shall be mutually agreed upon between the Program and the adult responsible.

Authority: *T.C.A. §§ 4–5–202, 4–5–209, and 68–1–106.*

1200–15–2–.07 MERCHANT CONTRACTS.

- (1) The Department utilizes a retail purchase food delivery system in which participants obtain approved foods by redeeming vouchers at local WIC merchants. The WIC merchant must comply with federal regulations found in 7 CFR Part 246 and the policies and procedures found in the WIC Merchant Handbook. The Department is not obligated to pay for any voucher accepted by a WIC merchant who was not authorized at the time of the redemption.
- (2) Only WIC merchants who operate at a permanent fixed location and who actively participate in the Food Stamp Program and have a food stamp compliance history may be considered for authorization by the Department as a WIC merchant. The Food Stamp Program requirement does not apply to pharmacies.
- (3) A merchant may apply by submitting a completed and signed Retailer Application for Authorization to Participate in the Tennessee WIC Program to the assigned Vendor Representative. Pharmacies receive written notification of waived requirements. Applications may be submitted at anytime.
- (4) An incomplete or inaccurate application will be denied and returned within fifteen (15) calendar days. If the merchant does not resubmit the corrected application within fifteen calendar days from receipt of the denial, an application will not be accepted again for six months from the effective date of the denial. If the resubmitted application is then denied two additional times, any application will not be accepted again for six months from the date of the first denial.
- (5) The application is subject to verification of the minimum stock requirement, competitive prices with other merchants of similar size in a peer group, and a positive compliance history with sanitation authorities. If the minimum stock is not available and/or competitive prices can not be verified during the Vendor Representative's first visit to the store's location, there will be a second unannounced visit within fifteen (15) calendar days. If the minimum stock requirement and/or verification of competitive prices are still not met, application will not be accepted again for six (6) months from the date of the second visit. Pharmacies are exempt from minimum stock and competitive pricing requirements.
- (6) The final decision will be made within sixty (60) days from the date of receipt of the completed application.
- (7) Once approved, the store must have a signed WIC Merchant Contractual Agreement with the Department. The merchant will be authorized to accept vouchers fifteen days following the completion of training. The training must be attended by an owner or an owner's authorized designee.
- (8) Neither the Department nor the WIC merchant has an obligation to renew the WIC Merchant Contractual Agreement. Departmental decision not to renew is not subject to appeal by the WIC merchant pursuant to federal regulations in 7 CFR Part 246. The Department will provide not less than fifteen (15) calendar days advance written notice prior to the termination date of the agreement.
- (9) During the term of the WIC Merchant Contractual Agreement, either the Department or the WIC merchant may terminate for cause, as defined in 7 CFR Part 246, after providing not less than fifteen (15) calendar days advance written notice.

Authority: *T.C.A. §§ 4–5–202, 4–5–209, and 68–1–106.*

1200–15–2–.08 MERCHANT ABUSE.

- (1) Compliance with the WIC Merchant Contractual Agreement will be verified through on-site monitoring visits, as well as computer monitoring of food prices and voucher redemption activity. In addition, compliance purchases may be conducted by an investigator posing as a participant. Invoices may also be audited by Regional Office staff.
- (2) Non-compliance is cause for sanctions against the WIC merchant as described in the WIC Merchant Handbook. These sanctions include disqualification, a civil money penalty (CMP) in lieu of disqualification, or a warning, in addition to other remedies available at law. Prior warning is not required before sanctions are issued. The Program may use installment plans for the collection of CMP's. However, if the WIC merchant does not honor an installment plan for a CMP, the WIC merchant shall be disqualified for the same corresponding length of time as the original disqualification. Specific sanctions, periods of enforcement, and appeal procedures are governed by the federal regulations in 7 CFR Part 246 and are found in the WIC Merchant Handbook. The following is a description of these sanctions. Subparts (a)–(d) are federally mandated, (e)–(g) are State established.

(a) Permanent disqualification for:

1. conviction of trafficking in WIC vouchers, or
2. conviction of selling firearms, ammunition, explosives, or controlled substances, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), in exchange for WIC vouchers.

(b) Six-year disqualification for:

1. one incidence of investigative finding of trafficking in WIC vouchers, or
2. one incidence of investigative finding of selling firearms, ammunition, explosives, or controlled substances.

(c) Three-year disqualification for:

1. one incidence of investigative finding of the sale of alcohol, alcoholic beverages, or tobacco products in exchange for WIC vouchers, or
2. a pattern of claiming reimbursement for more of a WIC food item than the merchant's documented inventory shows was on hand for a specific time period, or
3. a pattern of charging WIC participants more for WIC foods than non-WIC customers or more than the current shelf price, or
4. a pattern of receiving, transacting, and/or redeeming WIC vouchers outside of authorized channels including a merchant's location not contracted to accept WIC vouchers and/or from someone other than the person who signed the WIC voucher at the WIC Clinic, or
5. a pattern of charging for WIC foods not provided to the participant at the time of the transaction, or
6. a pattern of providing credit or non-food items (e.g., paper towels, tissues) in exchange for WIC vouchers, [other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances, which only require one (1) incidence].

(d) One-year disqualification for:

1. a pattern of providing non-WIC foods and/or a quantity of WIC food greater than allowed on the WIC vouchers.
- (e) One-year disqualification for first violation for:
1. intentionally providing false information on the Tennessee WIC merchant application, or
 2. intentionally providing false information on the WIC Grocer Price Report Card, or
 3. failing to allow any authorized WIC representative the right to inspect vouchers on hand, or
 4. failing to withhold deposit of WIC vouchers for up to seven (7) days upon request of an authorized WIC representative, or
 5. failing to produce bills of lading or invoices upon request of an authorized WIC representative, or
- (f) Warning for first violation, warning for second violation, six-month disqualification for third violation, one-year disqualification for fourth violation for:
1. failing to reimburse the WIC Program for a claim of reimbursement regarding one or more WIC vouchers, or
 2. failing to lower prices on approved WIC foods upon request of an authorized WIC representative, or
 3. failing to allow employee training on WIC procedures including having in place an effective policy and program to prevent trafficking, or
 4. failing of ownership/management to be knowledgeable of WIC procedures and be accountable for employee actions, or
 5. collecting reimbursement from a WIC participant(s) for a voucher(s) returned unpaid from the WIC Program's bank contractor, or
 6. failing to treat all WIC participants the same regardless of race, color, national origin, age, gender, disability, religious or political belief, or
 7. failing to meet minimum stock requirements for approved WIC foods including having stock within eligible product dates.
 8. failing to provide suitable hours and an environment for participant access including, but not limited to, not restricting the hours to redeem WIC vouchers, not keeping WIC participants from using a check-out available to all other customers, and not acting in a way that abuses or embarrasses a WIC participant, or
 9. failing to offer WIC participants any courtesies offered other customers including, but not limited to, bonus cards, multiplying of coupon values, and additional products for free, or
 10. requiring WIC participants to sign WIC vouchers without first entering the redeemed date and/or redeemed amount, or
 11. failing to obtain a signature on WIC vouchers at the time of the transaction, or

12. redeeming WIC vouchers not valid for the month in which they are redeemed, or
 13. failing to conduct WIC transactions only on the merchant's premises.
- (g) Warning for each violation. Any combination of the following violations occurring four or more times within a contract period may result in non-renewal of the WIC Contractual Agreement:
1. failing to have a current WIC Food List available at all check-out stations to assist employees and WIC participants, or
 2. failing to post other applicable materials upon request of an authorized WIC representative in such a way to make participants aware that the merchant accepts WIC vouchers, or
 3. failing to accurately complete the WIC Grocer Price Report Card, or
 4. failing to submit, including failing to return by the required date, the WIC Grocer Price Report Card, or
 5. failing to serve as or to designate a responsible contact person, or
 6. failing to notify the WIC program of a name and/or location change (with no ownership change), or
 7. failing to return a replaced State of Tennessee Vendor Stamp.
- (3) The WIC merchant may appeal any sanction or other adverse action taken against them, except for expiration of the WIC Merchant Contractual Agreement, any WIC Program determination regarding participant access, or an action resulting from a disqualification from the Food Stamp Program. The WIC Program shall provide fifteen (15) calendar days prior notice of a sanction action being taken against a merchant, except for permanent disqualification as described in subpart (a) of paragraph (2) of this rule. This notice shall contain the violation(s) used for the decision, procedure to file for an administrative review, effective date of the sanction(s), time period allowed to appeal, and any other pertinent information. The merchant's request for an administrative hearing in order to appeal the actions of the WIC Program must be received within fifteen (15) calendar days from the date of receipt of the notice. All hearings will be conducted in accordance with the Uniform Administrative Procedures Act, *T.C.A. §§ 4-5-101, et seq.*
- (4) Specific program violations result in sanctions being taken against the WIC merchant by State and federal programs. WIC merchants who are disqualified by the Food Stamp Program shall also be disqualified by the Program for the same length of time, unless doing so would place a hardship on participants.
- (5) A civil money penalty may be imposed when disqualification would place a hardship upon participants who normally redeemed their vouchers at that location. The participant access determination must be made in writing by the Department and is not subject to appeal by the WIC merchant. The guidelines for imposing civil money penalties and situations when they can be imposed are contained in 7 CFR Part 246 and described in the WIC Merchant Handbook based on either WIC Program or Food Stamp Program disqualification. A civil money penalty issued in lieu of permanent disqualification shall be \$10,000. For any other period of disqualification, it shall not exceed \$10,000 for each violation or \$40,000 for multiple violations.
- (6) A WIC merchant committing fraud or abuse of the Program is subject to prosecution under applicable federal, State, or local laws.

Authority: *T.C.A. §§ 4-5-202, 4-5-209, and 68-1-106.*

1200–15–2–.09 NON-DISCRIMINATION.

- (1) The Program is governed by the following USDA non-discrimination statement for participation in the Program as either a participant or WIC merchant:
- (2) “The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (e.g., Braille, large print, audiotape) should contact USDA’S TARGET Center at (202) 720-2600 (voice and TDD).
- (3) To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.”

Authority: *T.C.A. §§ 4–5–202, 4–5–209, and 68–1–106.*

REPEALS

Rule 1200–15–2 Special Supplemental Nutrition Program For Women, Infants and Children in their present form are repealed.

The public necessity rules set out herein were properly filed in the Department of State on the 30th day of December, 1999, and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the 12th day of January, 2000. (12-29)

TENNESSEE REGULATORY AUTHORITY – 1220**CONSUMER SERVICES DIVISION****STATEMENT OF NECESSITY REQUIRING PUBLIC NECESSITY RULES**

Section 5 of Public Chapter 478 of 1999, codified as *T.C.A. §65–4–405*, requires the Tennessee Regulatory Authority to promulgate rules to establish, by January 1, 2000, a database of residential telephone subscribers who object to receiving telephone solicitations. Both the database and the underlying program to service and enforce such database is to be operational by July 1, 2000. Some of the elements included in this process are: notification to the public of the opportunity to be listed; recordation of all consumers who opt onto the database; registration of any telephone solicitors who desire access to the registry of such consumers; collection of all appropriate fees from such telephone solicitors; and distribution of the Do Not Call Register. The period of time specified in the enabling legislation between the promulgation date and the implementation date for these rules does not allow for the prescribed period of time required for the promulgation of permanent rules. In order to accomplish this mandate of the Tennessee General Assembly, these rules are filed pursuant to *T.C.A. §4–5–209 (a)(4)*.

For a copy of this public necessity rule please contact: K. David Waddell, Executive Secretary, Tennessee Regulatory Authority, 460 James Robertson Parkway, Nashville, TN 47243; telephone 741-2904.

K. David Waddell
Executive Secretary
Tennessee Regulatory Authority

**PUBLIC NECESSITY RULES
OF THE
TENNESSEE REGULATORY AUTHORITY
CONSUMER SERVICES DIVISION**

**CHAPTER 1220-4-11
TELEPHONE SOLICITATION REGULATIONS - DO NOT CALL REGISTER**

NEW RULES

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1220-4-11-.01 DEFINITIONS

- (1) "Act" refers to *T.C.A. §§65-4-401 et seq.*
- (2) "ADAD" or "automatic dialing and announcing device" means any device or system of devices which is used, whether alone or in conjunction with other equipment, for the purpose of automatically selecting or dialing telephone numbers and disseminating recorded messages to the numbers so selected or dialed.
- (3) "Authority" means the Tennessee Regulatory Authority.
- (4) "Business Telephone Subscriber" means a person or company who has subscribed to a business telephone service from a local exchange carrier.
- (5) "Caller identification service" or "caller ID" means telephone service that notifies telephone subscribers of the telephone number of incoming telephone calls.
- (6) "Coordinator" refers to the individual employed by the Authority to oversee the regulation of telephone solicitation practices, including the operations of the Do Not Call Register, delegated to the Authority by the General Assembly in *T.C.A. §§65-4-401 and 47-18-1501*.

- (7) “Database” means the information from which the Authority compiles the Register. The database shall be maintained by the Authority, or its designee, for the purpose of fulfilling the requirements of *T.C.A. 65-4-401*.
- (8) “Division” refers to the Consumer Services Division of the Tennessee Regulatory Authority.
- (9) “Do Not Call Register” or “Register” means a list of telephone numbers of residential telephone subscribers who have properly enrolled with the Authority or a Federal agency, that their telephone numbers not be solicited by telephone solicitors.
- (10) “Existing customer” includes a residential telephone subscriber with whom the person or entity making a telephone solicitation has had a business relationship within the prior twelve (12) months.
- (11) “Interexchange carrier” means a company that is certificated by the Authority to provide long distance toll telephone service.
- (12) “Local exchange companies,” as used in this Chapter, includes telecommunications service providers and competing telecommunications service providers as defined in *T.C.A. §65-4-101*, as well as telephone cooperatives and cellular or other wireless telecommunications providers operating in Tennessee.
- (13) “Not-for-profit” means an organization that is exempt from paying taxes under Section 501(c) of the Internal Revenue Code.
- (14) “Residential Telephone Subscriber” means a person residing in Tennessee who has residential telephone service.
- (15) “Telephone solicitor” means any natural person, firm, organization, partnership, association or corporation, or a subsidiary or affiliate thereof, doing business in this state, who makes or causes to be made a telephone solicitation, including, but not limited to, calls made by use of automated dialing and announcing devices or by a live person.
- (16) “Telephone solicitation” means any voice communication over a telephone, originating from Tennessee or elsewhere, for the purposes of encouraging the purchase or rental of, or investment in, property, goods, or services, Telephone solicitation does not include:
 - (a) any voice communication to any residential telephone subscriber with that subscriber’s prior express invitation or permission;
 - (b) any voice communication to a residential telephone subscriber if such communication is made on behalf of a not-for-profit organization exempt from paying taxes under the Internal Revenue Code § 501(c), provided that a bona fide member of the exempt organization makes such voice communication;
 - (c) any voice communication to any residential telephone subscriber who is an existing customer; or
 - (d) occasional and isolated voice communications to a residential telephone subscriber provided all the following conditions are met:
 - (i) A direct employee of the business makes the voice communication;
 - (ii) The communication is not made as part of a telecommunications marketing plan;
 - (iii) The business has a reasonable belief that the specific person who is receiving the voice communication is considering purchasing the service or product sold or leased by the business and the call is specifically directed to such person;

- (iv) The business does not sell or engage in telephone solicitations; and
- (v) The business does not make more than three (3) such voice communications in any one (1) calendar week.

Authority: *T.C.A. §§65–2–102, 47–18–1501, 47–18–1526 and 65–4–405.*

1220–4–11–.02 GENERAL TELEPHONE SOLICITATION REGULATIONS

- (1) No telephone solicitor shall place a telephone call to a residential telephone subscriber at any time other than between the hours of 8:00 a.m. to 9:00 p.m. (local time at the called party's location) without the residential telephone subscriber's prior express invitation or permission.
- (2) All telephone solicitors must institute procedures for maintaining a list of persons who do not wish to receive telephone solicitations made by or on behalf of telephone solicitors in compliance with this Chapter, and 47 C.F.R. §64, and 16 C.F.R. §310.
- (3) All telephone solicitations to residential telephone subscribers shall, at the beginning of such call, state clearly the identity of the person initiating the call and entity or organization such person represents, and shall further meet the following requirements:
 - (a) Within the first twenty-five (25) seconds of the call and at the conclusion of the call, ADAD messages must clearly state the name and telephone number of the person or organization initiating the call. The telephone number given must be answered when telephone solicitations are being made. The person answering the telephone must be willing and able to provide information concerning the automated call.
 - (b) Live telephone solicitors must provide a telephone number that will be answered when telephone solicitations are being made. The person answering the telephone must be willing and able to provide information concerning the solicitation call.
- (4) Telephone solicitors are prohibited from knowingly using telephone equipment or telecommunications network elements to block or otherwise interfere with the caller ID function on the telephone of a residential telephone subscriber to whom a telephone solicitation is made so that the telephone number of the caller is not displayed on the telephone equipment of the called party.
- (5) Local exchange companies and interexchange carriers are prohibited from providing any network element or service to telephone solicitors that would block or otherwise interfere with on a per line basis, the display of the telephone solicitor's name and telephone number on the residential subscriber's caller ID equipment. Local exchange companies and interexchange carriers shall modify their tariffs to reflect the requirements of this Chapter within sixty (60) days of its effective date.
- (6) After notice and hearing, and upon finding that a telephone solicitor is in violation of this Chapter, the Authority may issue an order prohibiting local exchange companies and/or interexchange carriers from providing telecommunications service to such telephone solicitor.
- (7) Violations of this Chapter can result in civil actions prescribed by law, which include fines payable to the Authority.
- (8) Telephone solicitors must adhere to state and federal statutes regarding telephone solicitation practices, including, but not limited to, the Tennessee Consumer Protection Act.

- (9) After receipt of a complaint forwarded by the Authority, telephone solicitors shall, within ten (10) working days, file a written response with the Authority.

Authority: *T.C.A. §§65–2–102, 47–18–1501, 47–18–1526 and 65–4–405.*

1220–4–11–.03 MAINTAINING THE TENNESSEE DO NOT CALL REGISTER

- (1) The Authority shall maintain a database of names, addresses and telephone numbers of all Tennessee residential telephone subscribers who have elected not to receive telephone solicitations.
- (2) The information contained in the database is not open to public inspection or disclosure as defined under *Tennessee Code Annotated Title 10, Chapter 7*. The Authority will take all necessary steps to protect the confidentiality of the information in the database.
- (3) The Authority shall include in its Register the list of Tennessee subscribers to the Federal Communications Commission's or any other Federal agencies' Do Not Call national database, if and when such list is established.
- (4) The Division will update the Register at the beginning of each month.

Authority: *T.C.A. §65–2–102 and 65–4–405.*

1220–4–11–.04 TELEPHONE SOLICITOR'S ACCESS TO THE TENNESSEE DO NOT CALL REGISTER

- (1) It is the duty of any telephone solicitor engaging in the solicitation of Tennessee residential telephone subscribers to purchase the Register from the Authority. Telephone solicitors shall submit an application in writing to the Authority. The application must contain the telephone solicitor's name, address, telephone number and name of the agent for service of process along with a notarized statement from an officer of the company affirming the company will comply with the provisions of this Chapter.
- (2) Access to the following information will be provided to approved telephone solicitors:
 - (a) The Register of telephone number of Tennessee residential telephone subscribers who have elected not to receive telephone solicitations.
 - (b) The Do Not Call Register shall be provided, with unlimited access, via the Internet or other electronic means to telephone solicitors. It is the duty of telephone solicitors to ensure they have the latest version of the Register prior to soliciting residential telephone subscribers.
 - (c) Paper copies of the Register will be available to telephone solicitors at the current per page rate as set by the Tennessee secretary of state pursuant to *T.C.A. §65–1–212*.
- (3) Telephone solicitors doing business in the state and subject to the control and jurisdiction of this Chapter shall pay to the Authority, on or before May 1st of each year, an annual fee of \$500 for access to the Do Not Call Register. Such annual fee shall cover the time period from the following July 1st through June 30th, or any part thereof.

Authority: *T.C.A. §§65–2–102 and 65–4–405.*

1220-4-11-.05 CONSUMER REGISTRATION WITH THE TENNESSEE DO NOT CALL REGISTER

- (1) The Authority shall establish and provide for the operation of a Register on which to compile a list of telephone numbers of residential telephone subscribers who object to receiving telephone solicitations. Such Register may be operated by the Authority or by another entity under contract with the Authority. Guidelines for the operation of the Register are described as follows:
 - (a) Residential telephone subscribers may enroll on the Register as prescribed by the Division. Enrollment on to the Register will become effective sixty (60) days following the first day of the succeeding month of enrollment by the subscriber.
 - (b) A residential telephone subscriber will remain in the "Do Not Call Register" for a period of five (5) years or until the subscriber requests that the Authority removes their name from the Register.
 - (c) Business telephone subscribers may not be included on the Register.
 - (d) The Coordinator may purge the Register periodically in order to ensure accuracy.

Authority: *T.C.A. §§65-2-102 and 65-4-405.*

1220-4-11-.06 PUBLIC EDUCATION ABOUT THE TENNESSEE DO NOT CALL REGISTER

- (1) Local exchange companies shall notify their residential subscribers twice a year on how to enroll on the Register. This notification shall accompany the subscriber's monthly telephone bill and shall be developed in cooperation with the Coordinator.
- (2) In addition to the notification required by subsection (1), local exchange companies, working in cooperation with the Division, are required to place information in their White Page telephone directory informing their residential telephone subscribers how to be included in the Register.

Authority: *T.C.A. §§65-2-102 and 65-4-405.*

1220-4-11-.07 VIOLATIONS OF THE TENNESSEE DO NOT CALL REGISTER

- (1) It is a violation of *T.C.A. §65-4-401 et seq.* and this Chapter for a telephone solicitor to knowingly make or cause to be made any telephone solicitation to any telephone number that appeared in the copy of an updated Register that was in effect sixty (60) days prior to the time the telephone solicitation was made.
- (2) Violators of this Chapter are subject to a civil penalty, payable to the Authority, of an amount not to exceed Two-Thousand Dollars (\$2000) for each violation. In addition, the Authority may seek additional relief in any court of competent jurisdiction.
- (3) It shall be a defense in any proceeding brought under this Chapter that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of this Chapter.
- (4) Violations shall be calculated in a liberal manner in order to protect the public interest and deter similar violations.

- (5) Any local exchange company violating any provisions of this Chapter is subject to the penalties prescribed in *T.C.A. §65-4-120*.

Authority: *T.C.A. §§65-2-102 and 65-4-405.*

1220-4-11-.08 ENFORCEMENT PROVISIONS

- (1) The Authority may, on its own motion, or the recommendation of the Division, or the motion of the Consumer Advocate Division, or any other interested person, order the investigation of the practices of any telephone solicitor conducting business in Tennessee. Such investigation shall determine if such telephone solicitor has violated *T.C.A. §65-4-401*, or this Chapter. If such investigation discloses a violation of state law or this Chapter, the Authority shall issue a show cause order with respect to such acts pursuant to *T.C.A. §65-2-106*.
- (2) Local exchange companies and interexchange carriers are required to fully cooperate with the Division in any investigation of an alleged violation of this Chapter.
- (3) If one or more of the term(s) or provision(s) of this Chapter or the applications thereof, to any extent, are held to be invalid or unenforceable, then the remainder of this Chapter shall not be affected thereby.

Authority: *T.C.A. §§65-2-102 and 65-4-405.*

The public necessity rules set out herein were properly filed in the Department of State on the 30th day of December, 1999, and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the 12th day of January, 2000. (12-31)

RULEMAKING HEARINGS

THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION – 0400 DIVISION OF NATURAL HERITAGE

There will be a public hearing before the Tennessee Department of Environment and Conservation, Division of Natural Heritage, acting on behalf of the Commissioner of the Department of Environment and Conservation, to consider amendments of the Rules of the Tennessee Department of Environment and Conservation, Division of Natural Heritage, Chapter 0400–6–2, pursuant to *T.C.A. Section 70–8–313*. The comments received at this hearing will be presented to the Commissioner of the Tennessee Department of Environment and Conservation for consideration in regards to the proposed rulemaking. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *T.C.A. Section 4–5–204* and will take place in the following location: Ruth Neff Conference Room, Side A, 17th floor, L & C Tower, 401 Church Street, Nashville, TN 37243 on February 8, 2000, at 9:00 A.M. Central Time.

Written comments will be included in the hearing records if received by the close of business on February 8, 2000, at the Division of Natural Heritage, 8th floor, L & C Tower, 401 Church Street, Nashville, TN 37243.

Individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means, and should be made no less than ten days prior to February 8, 2000, or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, Isaac Okoreeh-Baah, 7th floor, L & C Annex, 21st floor, 401 Church Street, Nashville, TN, 37243, (615) 532-0059. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

For a copy of the entire text of this notice of rulemaking hearing, contact: Carl Nordman, 8th floor, L & C Tower, 401 Church Street, Nashville, TN 37243, (615) 532-0431.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0400–6–2 RARE PLANT PROTECTION AND CONSERVATION REGULATIONS

AMENDMENTS

Rule 0400–6–2–.04 List of Endangered Species is amended by correcting the entry *Agalinis pseudophylla* (Pennell) Shinnery and by making the following additions to the listing of endangered species:

0400–6–2–.04 LIST OF ENDANGERED SPECIES.

Correction and Additions:

Latin Name

Agalinis pseudophylla (Pennell) Shinnery
Carex aestivaliformis Mackenzie
Cephaloziella messalongi (Spreng.) K. Muell.
Clematis glaucophylla Small
Helianthus verticillatus Small

Common Name

Shinnery's false-foxglove
a sedge
a liverwort
White-leaved leatherflower
Whorled sunflower

Hypericum graveolens Bickl.
 Marsupella funkii (Web. & Mohr) Dumort.
 Pogonia ophioglossoides (L.) Ker-Gawl.
 Polygala nana (Michx.) DC.
 Rugelia nudicaulis Shuttlw. ex Chapman
 Saxifraga pennsylvanica L.
 Scutellaria arguta Buckl.
 Silene ovata Pursh
 Sullivantia sullivantii (Torr. & Gray) Britt.
 Trifolium reflexum L.

Mountain St. John's-wort
 a liverwort
 Rose pogonia
 Dwarf milkwort
 Rugel's ragwort
 Swamp saxifrage
 Hairy scullcap
 Ovate catchfly
 Sullivantia
 Buffalo clover

Authority: *T.C.A. §§4-5-204 and 70-8-301, et. seq.*

The notice of rulemaking hearing set out herein was properly filed in the Department of State on the 28th day of December, 1999. (12-27)

TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION – 0400 DIVISION OF SUPERFUND

There will be a hearing conducted by the Division of Superfund on behalf of the Solid Waste Disposal Control Board to receive public comments regarding the promulgation of amendment of rules pursuant to *T.C.A. Sections 68-212-203 and 68-212-215*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-204* and will take place at the City of Smyrna Assembly Hall, 110 Front Street, Smyrna, Tennessee on February 28, 2000, at 6:30 p.m. Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298).

SUBSTANCE OF PROPOSED RULES

CHAPTER 1200-1-13 HAZARDOUS SUBSTANCE SITE REMEDIAL ACTION

AMENDMENTS

Rule 1200-1-13-.13 List of Inactive Hazardous Substance Sites is amended by deleting the following site from the list, such deletion being made in a manner so that the entire list remains in numerical order:

<u>Site Number</u>	<u>Site Name</u>
Rutherford County (75)	
75-512	Wilkerson Dump Smyrna, TN

Authority: *T.C.A. §§68-212-206(e) and § 68-212-215(e).*

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of December, 1999. (12-17)

**TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION – 0400
DIVISION OF SUPERFUND**

There will be a hearing conducted by the Division of Superfund on behalf of the Solid Waste Disposal Control Board to receive public comments regarding the Feasibility Study/Selected Alternative for the Melvin Hamby Site and the promulgation of amendment of rules pursuant to *T.C.A. Sections 68–212–203 and 68–212–215*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4–5–204* and will take place at the City of Smyrna Assembly Hall, 110 Front Street, Smyrna, Tennessee on February 28, 2000, at 6:00 p.m. Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298).

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1200–1–13
HAZARDOUS SUBSTANCE SITE REMEDIAL ACTION**

AMENDMENTS

Rule 1200–1–13–.13 List of Inactive Hazardous Substance Sites is amended by deleting the following site from the list, such deletion being made in a manner so that the entire list remains in numerical order:

<u>Site Number</u>	<u>Site Name</u>
Rutherford County (75)	
75-520	Melvin Hamby Smyrna, TN

Authority: *T.C.A. §§68–212–206(e) and 68–212–215(e)*.

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of December, 1999. (12-16)

**THE TENNESSEE DEPARTMENT OF HEALTH – 1200
DIVISION OF EMERGENCY MEDICAL SERVICES**

**CHAPTER 1200–12–1
GENERAL RULES**

There will be a hearing before the Division of Emergency Medical Services to consider the promulgation of amendments of rules pursuant to *T.C.A. §§68–140–504, 68–104–508, and 68–140–509*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4–5–204* and will take place in the Magnolia Room of the Cordell Hull Building, Ground Floor, located at 425 Fifth Avenue North, Nashville, Tennessee at 10:00 a.m., Central Standard Time, on the 6th day of March, 2000.

Any individuals with disabilities who wish to participate in these proceedings or review these filings should contact the Department of Health, Division of Emergency Medical Services, to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date or the date

the party plans to review such filings, to allow time for the Division of Emergency Medical Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the department's ADA coordinator at the Andrew Johnson Tower, 11th Floor, 710 James Robertson Parkway, Nashville, TN 37243-0675, or 615-741-6350.

For a copy of the entire text of this notice of rulemaking, contact Joseph B. Phillips, Director, Division of Emergency Medical Services, Cordell Hull Building, First Floor, 425 Fifth Avenue North, Nashville, TN 37247-0701, 615-741-2584.

SUBSTANCE OF PROPOSED RULES

1200–12–1–.03 Emergency Medical Services Equipment and Supplies is amended by adding the following language as an appropriately numbered subpart (ix) to part 3, subparagraph (a) of paragraph (3), so that, as amended the part shall read:

3. Endotracheal intubation devices shall be supplied on advanced life support units, to include: (E) for items, (M) for amounts.
 - (i) One laryngoscope handle with operable batteries.
 - (ii) Laryngoscope blades in sizes 0 through 4, in combination of either straight(Miller) or curved (McIntosh) styles (at least five blades).
 - (iii) Endotracheal tubes, individually packaged in a sanitary sealed envelope or plastic package in pediatric uncuffed sizes in 2.5, 3.0, 3.5, 4.0, 4.5, 5.0, 5.5, and 6.0 mm.; and adult cuffed sizes in 6.5, 7.0, 7.5, 8.0, 8.5, and 9.0 mm.
 - (iv) Six packets of sterile surgical lubricant or equivalent.
 - (v) Stylets, adult and pediatric.
 - (vi) Syringe for cuff inflation, 10cc, with plain Luer tip.
 - (vii) Magill forceps in adult and pediatric sizes.
 - (viii) A syringe or bulb-type esophageal detector device.
 - (ix) An end-tidal carbon dioxide (CO₂) detector or capnometer for adult and pediatric patients which shall be used on each intubated patient.

Authority: T.C.A. §§4–5–202, 68–140–504, 68–140–505, 68–140–507, and 68–140–521.

Rule 1200–12–1–.04 Emergency Medical Technician is amended by adding the following language to subparagraph (c) of paragraph (3), so that, as amended, the subparagraph shall read:

- (c) The EMT shall report essential information concerning the patient, the patient's medical condition, and treatment to the medical personnel who assume responsibility for continuing care of the patient. EMS personnel shall submit information to health care facilities in the manner prescribed by rule 1200–12–1–.15.

Authority: T.C.A. §§4–5–202, 68–140–504, 68–140–505, and 68–140–509.

1200–12–1–.11 Ambulance Service Operations and Procedures is amended by deleting the language in paragraph (7) in its entirety.

Authority: T.C.A. §§4–5–202, 68–140–504, 68–140–505, and 68–140–509.

1200–12–1–.12 Authorization of Emergency Medical Technician Instructor/Coordinators is amended by deleting the language of paragraphs (1) through (3) in its entirety and inserting the following language so that, as amended, the paragraphs shall read:

- (1) EMS Program Director/Administrator shall mean an individual responsible for the overall coordination of all EMS Programs. The individual shall act as a liaison between faculty, the sponsoring agency, students, the local medical community, and the Division of Emergency Medical Services. The individual is also responsible for the recruitment and continued development of faculty to meet the needs of the institution.

The minimal qualifications for Program Director shall be:

- (a) Bachelors degree required from a regionally accredited college/university (preferably in allied health, education, or business administration.)
 - (b) The program director should have at least equivalent academic training and preparation, and hold all credentials for which the students are being prepared in the program, or hold comparable credentials which demonstrate at least equivalent training and preparation.
 - (c) Professional license must be free from history of revocation, denial or suspension.
 - (d) Prehospital experience shall include a minimum of three years practicing in the pre-hospital environment or equivalent. Administrative: Minimum of two years in EMS education administration.
 - (e) Current endorsement in a Board approved trauma, cardiac, and pediatric course at the provider level.
- (2) EMT-Basic Instructor/Coordinator shall mean an individual responsible for the overall coordination of the EMT-Basic Program. The individual shall act as a liaison between faculty, the sponsoring agency, students, the local medical community and the Division of Emergency Medical Services. The individual is also responsible for the delivery of didactic material, demonstration of the psychomotor skills, verification of skill proficiency, and the recruitment and continued development of faculty to meet the needs of the institution.

(a) The minimal qualifications for EMT-Basic Instructor Coordinator shall be:

1. Associate degree from a regionally accredited institution.
 2. Currently licensed as a Tennessee EMT-Paramedic, without history of revocation, denial, or suspension of licensure.
 3. Experience. Pre-Hospital: Minimum of two years practicing in the pre-hospital environment or 150 hours of EMS instruction acceptable to the Board. Administrative: Minimum of one year in EMS education administration.
 4. Completion of an EMS Board approved Instructors' course.
- (b) Authorization Renewal shall be contingent upon:
1. Assisting with at least 75 hours instruction (EMT-Basic or EMT-IV or EMT-I or EMT-P) on an annual basis.
 2. Maintaining current Tennessee licensure as an Emergency Medical Technician-Paramedic.
 3. Maintaining current CPR instructor endorsement.
 4. Attendance at annual EMT Instructor/Coordinators conference as mandated by the Division of Emergency Medical Services.
- (c) Denial of Reauthorization or Revocation of Authorization - The authorization of an EMT Course Coordinator may be removed or denied by the Director for the following reasons:
1. Consistent (two instances) failure to cover the prescribed course curriculum or failure to conduct the course in accordance with the practices prescribed by the Board and the Division.

2. Failure to complete and submit, as required, all required documentation for all students in each class.
 3. A lapsed, revoked, suspended, or expired license.
 4. Any violation of Tennessee Code Annotated, Title 68, Chapter 140 or any rule promulgated by the Board.
 5. An EMT-Basic Instructor/Coordinator may appeal to the Board any decision by the Director to revoke authorization or deny authorization.
- (3) EMT Instructor Assistant shall mean an individual capable of teaching the application of practical skills to include: assisting the faculty in the delivery of instruction, evaluating student performance of skills, maintenance of equipment, and coordinating with the faculty or Instructor/Coordinator to maintain adequate levels of needed equipment.
- (a) The minimal qualifications for EMT Instructor Assistant shall be:
1. Currently licensed as a Tennessee EMT-Basic, without history of revocation, denial, or suspension of licensure.
 2. Experience: Pre-Hospital: Minimum of one year practicing in the pre-hospital environment in Tennessee.
 3. Must document at least 75 hours of EMS instruction acceptable to the Board.
- (b) Authorization Renewal shall be contingent upon:
1. Document at least 45 hours of EMT instruction on an annual basis and acceptable to the Board.
 2. Maintaining current Tennessee licensure as an Emergency Medical Technician-Basic.
 3. Maintaining current CPR instructor endorsement.
 4. Completion of an EMS Board approved Instructors' course.
 5. Attendance at annual EMT Instructor/Coordinators conference as mandated by the Division of Emergency Medical Services.
- (c) Denial of Reauthorization or Revocation of Authorization - The authorization of an EMT Instructor Assistant may be removed or denied by the Director for the following reasons:
1. Consistent (two instances) failure to cover the prescribed course curriculum or failure to conduct the course in accordance with the practices prescribed by the Board and the Division.
 2. Failure to complete and submit, as required, all required documentation for all students in each class.
 3. A lapsed, revoked, suspended, or expired license.
 4. Any violation of Tennessee Code Annotated Title 68, Chapter 140, or any rule promulgated by the Board.
 5. An EMT Instructor Assistant may appeal to the Board any decision by the Director to revoke authorization or deny authorization.

Authority: T.C.A. §§4-5-202, 68-140-504, and 68-140-505.

1200-12-1-.15 Ambulance Service Records is amended by adding additional language to paragraph (2) as a new subparagraph (d) so that, as amended the paragraph shall read:

- (2) Dispatch and Run Records shall be provided for every call in which a patient is evaluated, treated, or transported, including information in accordance with the following requirements:
 - (a) A dispatch log shall be maintained to record the assignment of all units, including the date, the time the call is received, time and unit dispatched, time of arrival on scene, and time available or return to service. The dispatch log will specify personnel completing the call and cross-reference any ambulance run report number. Calls will be logged to reflect emergency or non-emergency response and the name of any patient transported. Compliance may be demonstrated by a single log, or such combination of records that can confirm the required information. Ambulance dispatch logs will be retained for a period of at least ten (10) years.
 - (b) A run report shall be maintained which shall include: date, type of incident, time of initial request, location of call, name and address of patient, patient's next of kin or responsible party; description of patient's complaint, injury or illness, and patient assessment; treatment rendered; the medical facility or destination; and ambulance personnel which shall be identified by name and certification numbers.
 - (c) After May 1, 1991, all ambulance transports originating as emergency runs, and emergency medical conditions requiring a patient transfer between medical facilities, shall be reported to the Division of Emergency Medical Services upon a form approved by the Board. Such forms shall be submitted in accordance with procedures established by the Director.
 - (d) Patient information shall be provided to the receiving health care facility. This information may be included on the regular run sheet if the run sheet documentation is provided to the facility; or a short form may be utilized for this purpose. The information shall include:
 1. identification of the ambulance service by name, address, and telephone number;
 2. chief complaint (or reason for transfer by ambulance);
 3. patient's vital signs including blood pressure, pulse, respirations, and pupils (equal, unequal, dilated, or constricted);
 4. brief narrative describing the treatment provided and intravenous fluids and medications that were administered by the EMS personnel, indicating solution, medication, dosage, and time;
 5. patient identification information, including the name, gender, race, and date of birth;
 6. date of transport noting the time of arrival on scene and the time of transfer to the receiving facility; and,
 7. signatures of the attending EMT or EMT-P, a representative of the receiving facility, and any health professional giving orders for care.

Authority: *T.C.A. §§4-5-202, 68-140-504, 68-140-505, 68-140-507, and 68-140-509.*

1200-12-1 Emergency Medical Services is amended by adding the following language as a new rule.

1200-12-1-.20 Destination Determination – Sick or injured persons who are in need of transport to a health care facility by a ground or air ambulance requiring licensure by the State of Tennessee should be transported according to these destination rules.

- (1) Trauma patients - The goal of the pre-hospital component of the trauma system and destination guidelines is to minimize injury through safe and rapid transport of the injured patient. The patient should be taken directly to the center most appropriately equipped and staffed to handle the patient's injury as defined by the region's trauma system. These destinations should be clearly identified and understood by regional prehospital personnel and

should be determined by triage protocols or by direct medical direction. Ambulances should bypass those facilities not identified by the region's trauma system as appropriate destinations, even if they are closest to the incident.

- (2) Beginning no later than six (6) months after the designation of a trauma center in any region, persons in that region, who are in need of transport who have been involved in a traumatic incident and who are suffering from trauma or a traumatic injury as a result thereof as determined by triage at the scene, should be transported according to the following rules.
 - (a) Adult and Pediatric Trauma Patients will be triaged and transported according to the flow chart labeled "Field Triage Decision Scheme" in "Resources For Optimal Care of the Injured Patient: 1999," or any successor publication. The Pediatric Trauma Score shall be used as published in "Basic Trauma Life Support for Paramedics and Other Advanced EMS Providers," Fourth Edition, 2000. Copies of the charts are available from the Division.
 1. Step One and Step Two patients should go to a Level 1 Trauma Center or CRPC, either initially or after stabilization at another facility.
 2. Step One or Step Two pediatric patients should be transported to a Comprehensive Regional Pediatric Center (CRPC) or to an adult Level 1 Trauma Center if no CRPC is available. Local Destination Guidelines should assure that in regions with two CRPC's or one CRPC and another facility with Level 1 Adult Trauma capability, that seriously injured children are cared for in the facility most appropriate for their injuries.
 3. For pediatric patients, a Pediatric Trauma Score of less than equal to 8 (≤ 8) will be considered as a cutoff level for Step One patients.
 4. Local or Regional Trauma Control may establish criteria to allow for non-transport of clearly uninjured patients.
 5. Trauma Control will determine patient destinations within forty-five minutes by ground transport of a Level 1 Trauma Center or CRPC.
 - (b) Exceptions apply in the following circumstances:
 1. For ground ambulances, when transport to a Level I Trauma Center will exceed forty-five (45) minutes, Medical Control will determine the patient's destination. If Medical Control is not available, the patient should be transported to the closest appropriate medical facility.
 2. For air ambulances, Step One patients will be transported to the most rapidly accessible Level I Trauma Center, taking safety and operational issues into consideration. Step Two, Three, and Four patients will be transported to a Level I Trauma Center as determined by the air ambulance's Medical Control. The Flight Crew will make determination of patient status on arrival of the air ambulance.
 3. Air ambulances will not transport chemical or radiation contaminated patients prior to decontamination.
 4. If the Trauma Center chosen as the patient's destination is overloaded and cannot treat the patient, Trauma Control shall determine the patient's destination. If Trauma or Medical Control is not available, the patient's destination shall be determined pursuant to regional or local destination guidelines.
 5. A transport may be diverted from the original destination:
 - (i) if a patient's condition becomes unmanageable or exceeds the capabilities of the transporting unit; or
 - (ii) if Trauma Control deems that transport to a Level I Trauma Center is not necessary.

- (c) Utilization of any of the exceptions listed above should prompt review of that transport by the quality improvement process and the medical director of the individual EMS providers.
 - (d) Trauma Control is defined as a Trauma or Emergency Physician on duty at a Level I Trauma Center. This requirement can be met by established protocols originating at the Level I Trauma Center. Medical Control is defined in Rule 1200–12–1–.04(3)
- (3) Pediatric patients represent a unique patient population with special care requirements in illness and injury. Tennessee has a comprehensive designation system for emergency care facilities in regards to pediatric patients, wherein there are variable levels of available care. There are circumstances in pediatric emergency care where it would be appropriate to bypass lower levels of care. These circumstances are outlined as follows.
- (a) Pediatric Medical Emergency
 - 1. The most critically ill pediatric patients should be taken to the highest level of care available in the region, if the additional estimated transport time to a higher level facility does not exceed 15 minutes or does not exceed 30 minutes beyond a Basic Pediatric Center.
 - 2. Pediatric patients with the following diagnoses should be seen at the highest level facility available in the region:
 - (i) Pediatric medical emergency transport may be diverted from the original destination if the patient's condition becomes unmanageable or exceeds the capability of the transporting unit, in which case the patient should be treated at the closest facility.
 - (ii) Pediatric medical emergency air ambulance transports must go to a CRPC.
 - (b) Pediatric trauma patients should be taken to trauma facilities as provided in paragraph (2).
- (4) Any patient who does not qualify for transport to a Trauma Center or Pediatric Care Facility should be transported to the most appropriate facility in accordance with regional or local destination guidelines.
- (5) Adults or children with specialized healthcare needs beyond those already addressed should have their destination determined by Medical or Trauma Control, by regional or local guidelines, or by previous arrangement on the part of patient (or his/her family or physician).

Authority: T.C.A. §§4–5–202, 68–140–504, 68–140–505, 68–140–509, and 68–140–521.

1200–12–1 Emergency Medical Services is amended by adding the following language as a new rule.

1200–12–1–.21 AUTOMATED EXTERNAL DEFIBILLATOR PROGRAMS

- (1) Each entity shall submit a written notice to the local emergency medical services and emergency communications district that provides the following information:
 - (a) the name of the entity, the owner of the AED, and a contact person and alternate with telephone numbers and mailing address of the placement facility;
 - (b) the street location and site within the facility where the AED shall be placed, means to access the AED, hours during the day when the AED may be available, and whether the AED may be used off-site;
 - (c) description of the AED by manufacturer and model;
 - (d) listing of the area emergency medical services and contact information for the EMS agency and emergency communications district;

- (e) the name and contact information of the physician supervising the AED placement; and,
 - (f) how the use of the AED is coordinated with the local EMS system.
- (2) Each entity shall maintain a written AED plan that includes:
- (a) designation of the training programs adopted by the entity to prepare expected users;
 - (b) a list of individuals appropriately trained and authorized;
 - (c) a plan of action for proper use of the AED;
 - (d) registration with local emergency medical services with acknowledgement by their representatives of the AED placement, plan, and program;
 - (e) description of how the AED program coordinates with EMS and the dispatching entity
 - (f) maintenance and testing procedures necessary to maintain the device, and sample forms to document proper maintenance; and,
 - (g) reports that shall be made of AED use, and other records to be maintained by the program.
- (3) Each entity shall complete a report of the use of an AED and submit a copy to the responding EMS agency and the supervising physician to document the following:
- (a) time of use or deployment of the device;
 - (b) the model of AED used;
 - (c) names of the AED responders;
 - (d) patient information, when known, to include name, age, race, and gender of the patient;
 - (e) condition of the patient upon arrival of AED responders and resuscitative actions;
 - (f) condition of the patient upon arrival of EMS; and,
 - (g) patient outcome.
- (4) Each placement of an AED shall be supervised and endorsed by a physician with an unrestricted license to practice medicine or osteopathy in Tennessee.
- (5) Each automated external defibrillator shall comply with the provisions of T.C.A. § 68–140–710 and shall perform the following capabilities:
- (a) analyze heart rhythm and deliver electrical impulses (countershocks) for at least thirty (30) minutes after deployment;
 - (b) deliver visual or audible warnings of low battery power;
 - (c) provide an audible or visual warning of loose connections of the electrodes; and
 - (d) incorporate an internal event record providing the time of activation, times of rhythm analysis; and times of delivery of countershocks.

- (6) The following training programs in cardiopulmonary resuscitation and AED use are consistent with the scientific guidelines of the American Heart Association and have been approved by the Tennessee Emergency Medical Services Board.
 - (a) Heartsaver AED Course of the American Heart Association
 - (b) Advanced Cardiac Life Support Course of the American Heart Association (for Healthcare professionals in conjunction with Basic Life Support for Healthcare Providers)
 - (c) Workplace First Aid and Safety: Adult CPR/AED Training Course of the American Red Cross
 - (d) AED Training Course of the American Red Cross (in conjunction with Adult and Professional Rescuer CPR courses)
 - (e) AED Course of the National Safety Council (in conjunction with AHA, NSC, or ARC Adult CPR Courses)
 - (f) Heartsaver FACTS Course of the National Safety Council or American Heart Association;
 - (g) Basic Life Support for Professionals and AED Training by Medic First Aid

Authority: *T.C.A. §§4-5-202, 68-140-504, 68-140-505, and 68-140-705.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of December, 1999. (12-25)

**DEPARTMENT OF HEALTH – 1200
DIVISION OF COMMUNICABLE AND ENVIRONMENTAL DISEASE SERVICES**

**CHAPTER 1200-14-1
COMMUNICABLE DISEASES**

AMENDMENTS

There will be a hearing before the Department of Health, Communicable and Environmental Disease Services to consider the promulgation of amendments of rules, pursuant to *Tennessee Code Annotated, Title 68, Chapter 5*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Bureau Conference Room, located on the 4th Floor of the Cordell Hull Building, 425 5th Avenue, North, Nashville, Tennessee at 10:00 A.M. on the 17th day of February, 2000.

Any individuals with disabilities who wish to participate in these proceedings should contact the Department of Health to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the Communicable and Environmental Disease Services Section to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Health ADA Coordinator in the Division of Human Resources in Nashville, Tennessee, by calling (615) 741-6350.

For a copy of this notice of rulemaking hearing, contact: Gary L. Swinger, DVM, MPH, Communicable and Environmental Disease Services Section, 4th Floor, Cordell Hull Building, Nashville, Tennessee 37247-4911, (615) 741-7247.

SUBSTANCE OF PROPOSED RULE

**CHAPTER 1200-14-1
COMMUNICABLE DISEASES**

AMENDMENTS

1200–14–1–.02 Notifiable Diseases is amended by deleting the existing language in its entirety and inserting the following new language:

1200–14–1–.02 NOTIFIABLE DISEASES.

The following diseases and conditions are declared to be communicable and/or dangerous to the public and are to be reported to the local health officer or local health department by all physicians, laboratories, and other persons knowing of or suspecting a case in accordance with the provision of the statutes and regulations governing the control of communicable diseases in Tennessee.

- (a) Acquired Immunodeficiency Syndrome (AIDS)‡
- (b) Anthrax**
- (c) Botulism
 - 1. Foodborne**
 - 2. Wound *
 - 3. Infant
- (d) Brucellosis **
- (e) Campylobacteriosis
- (f) Chancroid
- (g) Chlamydia trachomatis
- (h) Cholera
- (i) Cyclospora
- (j) Cryptosporidiosis
- (k) Diphtheria*
- (l) Disease Outbreaks*
 - 1. Foodborne
 - 2. Waterborne
 - 3. All other
- (m) Ehrlichiosis
- (n) Encephalitis, Arboviral*
 - 1. California/LaCrosse Serogroup
 - 2. Eastern Equine
 - 3. St. Louis
 - 4. Venezuelan Equine**
 - 5. Western Equine
 - 6. West Nile-like
- (o) Escherichia coli 0157:H7
- (p) Giardiasis (acute)
- (q) Gonorrhea
- (r) Group A Streptococcal Invasive Disease *
- (s) Group B Streptococcal Invasive Disease *
- (t) Haemophilus Influenzae Invasive Disease*
- (u) Hantavirus Disease*
- (v) Hemolytic Uremic Syndrome (HUS)
- (w) Hepatitis, Viral
 - 1. Type A (acute) *
 - 2. Type B (acute)
 - 3. BsAg positive pregnant female
 - 4. Type C (Acute)
- (x) Human Immunodeficiency Virus (HIV)‡
- (y) Influenza – number of cases (weekly)
- (z) Lead Poisoning (blood lead levels ≥ 10 ug/dl for children 0-72 months of age)†
- (aa) Legionellosis
- (bb) Leprosy (Hansen Disease)

- (cc) Listeriosis*
- (dd) Lyme Disease
- (ee) Malaria
- (ff) Measles*
- (gg) Meningococcal Disease*
- (hh) Meningitis – Other Bacterial*
- (ii) Mumps*
- (jj) Pertussis (Whooping Cough)*
- (kk) Plague **
- (ll) Poliomyelitis*
- (mm) Psittacosis
- (nn) Q Fever**
- (oo) Rabies
 - 1. Human*
 - 2. Animal
- (pp) Ricin Poisoning **
- (qq) Rocky Mountain Spotted Fever
- (rr) Rubella and Congenital Rubella Syndrome*
- (ss) Salmonellosis
 - 1. Typhoid Fever*
 - 2. Other forms
- (tt) Shiga-like Toxin positive stool
- (uu) Shigellosis
- (vv) Smallpox **
- (ww) Staphylococcal Enterotoxin B Pulmonary Poisoning **
- (xx) Streptococcus pneumoniae Invasive Disease
 - 1. Penicillin resistant
 - 2. Penicillin sensitive
- (yy) Syphilis
- (zz) Tetanus
- (aaa) Toxic Shock Syndrome
 - 1. Staphylococcal
 - 2. Streptococcal
- (bbb) Trichinosis
- (ccc) Tuberculosis – all forms
- (ddd) Tularemia**
- (eee) Vancomycin Resistant Enterococci (VRE)
- (fff) Varicella deaths
- (ggg) Vibrio infections
- (hhh) Viral Hemorrhagic Fever **
- (iii) Yellow Fever
- (jjj) Yersiniosis

* = Immediate telephonic reporting required followed by a written report

** = Possible bioterrorism indicator: Immediate telephonic reporting required followed by a written report

‡ = Requires special confidential reporting to designated health department personnel

† = Laboratories required to report all blood lead test results meeting criteria

Authority: T.C.A. §§4–5–202 and 68–5–104 (a).

1200–14–1–.03 Physicians Reports is amended by deleting the existing language in its entirety and inserting the following new language:

1200–14–1–.03 PHYSICIANS REPORTS.

- (1) Whenever any physician examines or treats any person known or suspected by him to be affected with any of the diseases or conditions declared to be notifiable by these regulations, he shall give notice of such disease as follows: For diseases for which immediate telephone reporting is required, he shall telephone as soon as possible and no later than twelve hours, to the local health department in the county, district or region in which such physician practices or to the Tennessee Department of Health giving the name, age, sex, race, and address of the patient and the name of the known or suspected disease or conditions.
- (2) For all of the diseases and conditions listed (including those for which telephonic communication is required), written notification using forms provided by the Department or other suitable means shall be made each week to the local health department in the county, district, or region in which the physician practices or to the Tennessee Department of Health giving the name, age, sex, race and address of the patient and the name of the known or suspected disease or condition. Influenza shall be reported weekly only by number of cases.
- (3) For diseases for which a confidential report is required, the person reporting must enclose the information in an opaque envelope for mailing and must not use a post card reporting method.

Authority: *T.C.A. §§4-5-202 and 68-5-104(a).*

1200-14-1-.04 Health Officer's Report is amended by deleting the existing language in its entirety and inserting the following new language:

1200-14-1-.04 HEALTH OFFICER'S REPORT.

- (1) No later than the last working day of each week, all local health departments shall mail to the Department any reports of notifiable diseases received during the week.
- (2) Whenever a case or suspected case of a disease for which a telephone report is required and whenever a cluster or suspected cluster of a waterborne, foodborne, industry related, or other disease occurs, the local health department shall immediately report by telephone such information to the Tennessee Department of Health, Division of Communicable and Environmental Disease Services. The report shall contain the facts and circumstances related to such illnesses and conditions.
- (3) Local health departments shall report to the Regional or State Health Department changes of address of patients with active tuberculosis or AIDS on forms distributed by the Department.

Authority: *T.C.A. §§4-5-202 and 68-5-104(a).*

1200-14-1-.41 Reports of Sexually Transmitted Diseases is amended by deleting the existing language in its entirety and inserting the following new language:

1200-14-1-.41 REPORTS OF SEXUALLY TRANSMITTED DISEASES.

- (1) The following diseases are declared to be sexually transmitted diseases and, upon their diagnosis or treatment, are subject to reporting requirements as designated in *T.C.A. §68-10-101*.
 - (a) Acquired Immune Deficiency Syndrome (AIDS)*
 - (b) Gonorrhea*
 - (c) Syphilis (by stage)*
 - (d) Chlamydia trachomatis *
 - (e) Human Immunodeficiency Virus (HIV)*
 - (f) Hepatitis B Virus (HBV)*

* Confidential (opaque envelope) report required

- (2) All information and reports concerning persons infected with sexually transmitted diseases shall be confidential and shall be inaccessible to the public.
- (3) In accordance with *T.C.A. §37-1-403*, any physician or other person diagnosing or treating venereal herpes or any of these reportable sexually transmitted diseases in a child 13 years of age or younger should make a confidential written report of the case to the Department.

Authority: *T.C.A. §§4-5-202, 37-1-403(G), 68-1-103, 68-1-106, 68-10-101, 68-10-112, 68-10-113, and 68-29-107.*

The notice of rulemaking set out herein were properly filed in the Department of State on the 21st day of December, 1999.
(12-21)

**DEPARTMENT OF HEALTH - 1200
BUREAU OF HEALTH SERVICES
NUTRITION SERVICES SECTION**

There will be a hearing before the Department of Health to consider the promulgation of rules pursuant to Tennessee Code Annotated § 68—1—106. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4—5—204 and will take place in the Sequoyah Room of the Cordell Hull Building located on the ground floor at 425 Fifth Avenue, North, Nashville, TN, at 1:00 PM central time on the 16th day of February, 2000.

Any individuals with disabilities who wish to participate in these proceedings should contact the Department of Health to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the Department of Health to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Health's ADA Coordinator in the Division of Human Resources, Andrew Johnson Tower, 710 James Robertson Parkway, 11th Floor, Nashville, TN 37247-0103 or call 615-741-6350.

For a copy of this rule, contact Jerry Orenstein, Department of Health, Nutrition Services Section, Cordell Hull Building, Fifth Floor, 425 Fifth Avenue, North, Nashville, Tennessee 37247-5310 (telephone 615-532-8177).

**CHAPTER 1200-15-2
SPECIAL SUPPLEMENTAL NUTRITION PROGRAM
FOR WOMEN, INFANTS AND CHILDREN**

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1200-15-2-.01 DEFINITIONS.

- (1) The following definitions shall apply to this part and all contracts, guidelines, instructions, forms and other documents related hereto.
 - (a) "Adjunctive eligibility" means automatic income eligibility for WIC, based on eligibility for another federal program as defined in 7 CFR (Code of Federal Regulations) Part 246.

- (b) “Approved foods” means types, brands, or varieties of foods meeting the Program requirements established under the federal regulations found in 7 CFR Part 246. Foods selected by the Department for the Program in Tennessee can be further limited due to cost, availability, packaging, or other reasons as defined in the current Tennessee Food Package Policy, as provided by Central Office to food manufacturers and other interested parties needing this information.
- (c) “Breastfeeding woman” means a participant who is breastfeeding her baby up to twelve months after delivery.
- (d) “Central Office” means the office site operated by the Department which is responsible for the overall operation of the Program.
- (e) “Child” means a person one to five years of age.
- (f) “Civil money penalty” means a money penalty assessed in lieu of disqualification, as described in 7 CFR Part 246.
- (g) “Competitive prices” means shelf prices for approved foods that are competitive with the WIC merchants in the same peer group and region within the state.
- (h) “Department” means the Tennessee Department of Health.
- (i) “Disqualification” means the withdrawal of authorization as a result of fraud, abuse, violation of federal regulations, or continued failure to meet Program requirements prior to the expiration of a WIC Merchant Contractual Agreement.
- (j) “Dual participation” means simultaneous participation in either the Program in more than one clinic and/or region, or participation in the Program and in the Commodity Supplemental Food Program.
- (k) “Food instrument” means a negotiable check with a limited period of validity used by a Program participant to purchase approved foods at an authorized WIC merchant.
- (l) “Food package” means the types and amounts of approved foods based on the nutritional needs of the participant.
- (m) “Grocery store” means a retail store whose primary business is the sale of food. Its purpose is to provide participants with a selection of approved foods that meets the Program’s minimum stock requirement.
- (n) “Income” means gross income before taxes. Source of income is further defined in the WIC Manual.
- (o) “Infant” means a baby up to twelve months of age.
- (p) “Lock-in status” means vouchers must be presented to a merchant specified by the Program, on a specific day, mutually agreed upon between the Program and the participant.
- (q) “Merchant” means a retail grocery store or pharmacy authorized by the Department to redeem food instruments.
- (r) “Minimum stock requirement” means the types, varieties, brands, and quantities of approved foods a grocery store is required to keep available as established by the Department for the Program.
- (s) “Nutritional risk” as defined by federal regulation means:
 - 1. detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements;
 - 2. other documented nutritionally related medical conditions;

- (i) dietary deficiencies that impair or endanger health; or
 - (ii) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions.
- (t) “Participant” means a pregnant woman, breastfeeding woman, postpartum woman, infant, or child who is receiving supplemental foods or food instruments under the Program.
- (u) “Participation” means a monthly count of persons who have received supplemental foods or food instruments.
- (v) “Pattern” means an act that occurs two (2) or more times.
- (w) “Peer group” means a group of WIC merchants who have common characteristics and are located in the same geographic region. The characteristics are type of business, type of ownership, total sales volume, and pricing of approved foods.
- (x) “Pharmacy” means a retail establishment licensed by the State of Tennessee to operate as a pharmacy. Its purpose for authorization in the Program is to provide Special Formulas defined in the WIC Manual. These formulas are issued to a participant when prescribed by written order from a physician or nurse clinician under physician supervision.
- (y) “Postpartum woman” means a participant who is not breastfeeding her baby, but may remain on the Program for up to six months after delivery.
- (z) “Program” means the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) authorized by Section 17 of the Child Nutrition Act of 1966, as amended.
- (aa) “Proxy” means a person designated, in writing, by the participant to receive the vouchers and shop for the supplemental foods issued on the voucher.
- (bb) “Regional Office” means an administrative site operated by or under contract with the Department to provide Program services for its designated geographic area.
- (cc) “Retailer Application for Authorization to Participate in the Tennessee WIC Program” means the standard application form and attachments required by the Department for a merchant to participate in the Program. The application must be signed by the Department’s authorized designee, as well as an owner or an owner’s authorized designee.
- (dd) “Sanction” means a disciplinary action taken by the Department.
- (ee) “Trafficking” means the exchange of WIC vouchers for cash.
- (ff) “USDA” means the United States Department of Agriculture.
- (gg) “Vendor” – see “Merchant”
- (hh) “Vendor Representative” means the regional office staff person who is responsible for contracting the WIC merchant and assuring compliance with the WIC Merchant Contractual Agreement.
- (ii) “Violation” means an act of non-compliance that occurs at least one (1) time.
- (jj) “Voucher stamp” means a device provided by the Department which imprints the WIC merchant’s name and assigned number on redeemed vouchers.
- (kk) “Voucher” – see “Food instrument”
- (ll) “WIC food”–see “Approved foods”

- (mm) “WIC Food List” means the current list of approved foods as provided by the Department to participants and contracted grocery stores.
- (nn) “WIC Grocer Price Report Card” means the form submitted by contracted grocery stores at time of application and then on a periodic basis as required by the Department to report prices of specific approved foods.
- (oo) “WIC Manual” means the current publication produced by the Department that contains Program information, policies, procedures, sample reports, and forms for use by Program staff in the regional offices and local health department clinics.
- (pp) “WIC Merchant Contractual Agreement” means the standard written departmental agreement that specifies the terms and conditions for a WIC merchant to participate in the Program. (The agreement must be signed by an owner or an owner’s authorized designee and the Department’s authorized designee. See Retailer Application.)
- (qq) “WIC Merchant Handbook” means the current publication produced by the Department that contains Program information, policies, and procedures to be followed by WIC merchants.
- (rr) “WIC Merchant Management Manual” means the current publication produced by the Department that contains Program information, policies, procedures, sample reports and forms for use by Program staff in the Central Office and the Regional Offices.

Authority: *T.C.A. §§ 4–5–202, 4–5–209, and 68–1–106.*

1200–15–2–.02 PURPOSE.

- (1) WIC is the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) administered by the Tennessee Department of Health. The purpose of the Program is to provide supplemental foods, nutrition education, and breastfeeding promotion to eligible persons. The Program serves as an adjunct to good health care during critical times of human growth and development.

Authority: *T.C.A. §§ 4–5–202, 4–5–209, and 68–1–106.*

1200–15–2–.03 ELIGIBILITY.

- (1) In order to participate in the Program, an applicant must:
 - (a) be a resident of the state of Tennessee, and
 - (b) have income not exceeding 185% of the USDA poverty income guidelines for family size published annually in the Federal Register or have adjunctive eligibility as defined in 7 CFR Part 246 of the federal regulations, and
 - (c) be found to be at nutritional risk as defined in 7 CFR Part 246 of the federal regulations.
- (2) When resources are limited, participants will be served within priority groups as defined in 7 CFR Part 246 of the federal regulations.

Authority: *T.C.A. §§ 4–5–202, 4–5–209, and 68–1–106.*

1200–15–2–.04 ISSUANCE OF VOUCHERS

- (1) Vouchers shall only be issued to a participant, a parent/caretaker, or an authorized proxy designated by the participant in writing in accordance with policy as described in the WIC Manual.

- (2) Food packages are based on nutritional needs of participants and will be issued in accordance with policy as described in the WIC Manual.

Authority: *T.C.A. §§ 4-5-202, 4-5-209, and 68-1-106.*

1200-15-2-.05 VOUCHER REDEMPTION.

- (1) Vouchers must be redeemed only for approved foods as described in the WIC Manual.
- (2) Vouchers must be redeemed only up to the amount of food specified.
- (3) Prices charged for approved foods must be the same or lower than the current prices charged to other customers.
- (4) Vouchers must be redeemed within the month for which they are valid and must be deposited within sixty (60) days from the last day valid.
- (5) The WIC merchant shall not collect payment from participants for vouchers which are returned from the bank unpaid.
- (6) The cost of a food package redeemed by a WIC merchant is controlled by the prices submitted periodically by the WIC merchant, as described in WIC Merchant Contractual Agreement.
- (7) Vouchers can be redeemed only up to the amount of the prices submitted by the WIC merchant to the Program.
- (8) The Department may submit to the merchant a claim for amounts in excess of the amount of the prices submitted by the WIC merchant to the Program.

Authority: *T.C.A. §§ 4-5-202, 4-5-209, and 68-1-106.*

1200-15-2-.06 PARTICIPANT ABUSE.

- (1) A participant may be disqualified up to three months for dishonesty in the use of vouchers; for providing false information for certification including dual participation; for sale of supplemental food or food instruments to, or exchange with, other individuals or entities; for receipt from WIC merchants of cash or credit toward purchase of unauthorized food or other items; or for physical abuse or threat of physical abuse of clinic or WIC merchant staff.
- (2) A participant may be required to repay the value of any food received in excess of the specified quantity issued.
- (3) A participant will be given an opportunity for a hearing prior to any adverse action. The participant must request a hearing within sixty (60) days of the notice of the adverse action. All hearings will be conducted in accordance with the Uniform Administrative Procedures Act, *T.C.A. §4-5-101, et seq.*
- (4) When the eligible participant is an infant or child, and the parent/caretaker is guilty of the violations set forth in item (1) of this section, further participation by the infant or child shall be on a lock-in basis. The adult person who is responsible for the child or infant shall be required to present vouchers at a program designated WIC merchant on a specific day of the month. The day of the month shall be mutually agreed upon between the Program and the adult responsible.

Authority: *T.C.A. §§ 4-5-202, 4-5-209, and 68-1-106*

1200-15-2-.07 MERCHANT CONTRACTS.

- (1) The Department utilizes a retail purchase food delivery system in which participants obtain approved foods by redeeming vouchers at local WIC merchants. The WIC merchant must comply with federal regulations found in 7 CFR Part 246 and the policies and procedures found in the WIC Merchant Handbook. The Department is not obligated to pay for any voucher accepted by a WIC merchant who was not authorized at the time of the redemption.

- (2) Only WIC merchants who operate at a permanent fixed location and who actively participate in the Food Stamp Program and have a food stamp compliance history may be considered for authorization by the Department as a WIC merchant. The Food Stamp Program requirement does not apply to pharmacies.
- (3) A merchant may apply by submitting a completed and signed Retailer Application for Authorization to Participate in the Tennessee WIC Program to the assigned Vendor Representative. Pharmacies receive written notification of waived requirements. Applications may be submitted at anytime.
- (4) An incomplete or inaccurate application will be denied and returned within fifteen (15) calendar days. If the merchant does not resubmit the corrected application within fifteen calendar days from receipt of the denial, an application will not be accepted again for six months from the effective date of the denial. If the resubmitted application is then denied two additional times, any application will not be accepted again for six months from the date of the first denial.
- (5) The application is subject to verification of the minimum stock requirement, competitive prices with other merchants of similar size in a peer group, and a positive compliance history with sanitation authorities. If the minimum stock is not available and/or competitive prices can not be verified during the Vendor Representative's first visit to the store's location, there will be a second unannounced visit within fifteen (15) calendar days. If the minimum stock requirement and/or verification of competitive prices are still not met, application will not be accepted again for six (6) months from the date of the second visit. Pharmacies are exempt from minimum stock and competitive pricing requirements.
- (6) The final decision will be made within sixty (60) days from the date of receipt of the completed application.
- (7) Once approved, the store must have a signed WIC Merchant Contractual Agreement with the Department. The merchant will be authorized to accept vouchers fifteen days following the completion of training. The training must be attended by an owner or an owner's authorized designee.
- (8) Neither the Department nor the WIC merchant has an obligation to renew the WIC Merchant Contractual Agreement. Departmental decision not to renew is not subject to appeal by the WIC merchant pursuant to federal regulations in 7 CFR Part 246. The Department will provide not less than fifteen (15) calendar days advance written notice prior to the termination date of the agreement.
- (9) During the term of the WIC Merchant Contractual Agreement, either the Department or the WIC merchant may terminate for cause, as defined in 7 CFR Part 246, after providing not less than fifteen (15) calendar days advance written notice.

Authority: *T.C.A. §§ 4-5-202, 4-5-209, and 68-1-106.*

1200-15-2-.08 MERCHANT ABUSE.

- (1) Compliance with the WIC Merchant Contractual Agreement will be verified through on-site monitoring visits, as well as computer monitoring of food prices and voucher redemption activity. In addition, compliance purchases may be conducted by an investigator posing as a participant. Invoices may also be audited by Regional Office staff.
- (2) Non-compliance is cause for sanctions against the WIC merchant as described in the WIC Merchant Handbook. These sanctions include disqualification, a civil money penalty (CMP) in lieu of disqualification, or a warning, in addition to other remedies available at law. Prior warning is not required before sanctions are issued. The Program may use installment plans for the collection of CMP's. However, if the WIC merchant does not honor an installment plan for a CMP, the WIC merchant shall be disqualified for the same corresponding length of time as the original disqualification. Specific sanctions, periods of enforcement, and appeal procedures are governed by the federal regulations in 7 CFR Part 246 and are found in the WIC Merchant Handbook. The following is a description of these sanctions. Subparts (a)-(d) are federally mandated, (e)-(g) are State established.
 - (a) Permanent disqualification for:
 1. conviction of trafficking in WIC vouchers, or

2. conviction of selling firearms, ammunition, explosives, or controlled substances, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), in exchange for WIC vouchers.
- (b) Six-year disqualification for:
1. one incidence of investigative finding of trafficking in WIC vouchers, or
 2. one incidence of investigative finding of selling firearms, ammunition, explosives, or controlled substances.
- (c) Three-year disqualification for:
1. one incidence of investigative finding of the sale of alcohol, alcoholic beverages, or tobacco products in exchange for WIC vouchers, or
 2. a pattern of claiming reimbursement for more of a WIC food item than the merchant's documented inventory shows was on hand for a specific time period, or
 3. a pattern of charging WIC participants more for WIC foods than non-WIC customers or more than the current shelf price, or
 4. a pattern of receiving, transacting, and/or redeeming WIC vouchers outside of authorized channels including a merchant's location not contracted to accept WIC vouchers and/or from someone other than the person who signed the WIC voucher at the WIC Clinic, or
 5. a pattern of charging for WIC foods not provided to the participant at the time of the transaction, or
 6. a pattern of providing credit or non-food items (e.g., paper towels, tissues) in exchange for WIC vouchers, [other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances, which only require one (1) incidence].
- (d) One-year disqualification for:
1. a pattern of providing non-WIC foods and/or a quantity of WIC food greater than allowed on the WIC vouchers.
- (e) One-year disqualification for first violation for:
1. intentionally providing false information on the Tennessee WIC merchant application, or
 2. intentionally providing false information on the WIC Grocer Price Report Card, or
 3. failing to allow any authorized WIC representative the right to inspect vouchers on hand, or
 4. failing to withhold deposit of WIC vouchers for up to seven (7) days upon request of an authorized WIC representative, or
 5. failing to produce bills of lading or invoices upon request of an authorized WIC representative, or
- (f) Warning for first violation, warning for second violation, six-month disqualification for third violation, one-year disqualification for fourth violation for:
1. failing to reimburse the WIC Program for a claim of reimbursement regarding one or more WIC vouchers, or
 2. failing to lower prices on approved WIC foods upon request of an authorized WIC representative, or

3. failing to allow employee training on WIC procedures including having in place an effective policy and program to prevent trafficking, or
 4. failing of ownership/management to be knowledgeable of WIC procedures and be accountable for employee actions, or
 5. collecting reimbursement from a WIC participant(s) for a voucher(s) returned unpaid from the WIC Program's bank contractor, or
 6. failing to treat all WIC participants the same regardless of race, color, national origin, age, gender, disability, religious or political belief, or
 7. failing to meet minimum stock requirements for approved WIC foods including having stock within eligible product dates.
 8. failing to provide suitable hours and an environment for participant access including, but not limited to, not restricting the hours to redeem WIC vouchers, not keeping WIC participants from using a check-out available to all other customers, and not acting in a way that abuses or embarrasses a WIC participant, or
 9. failing to offer WIC participants any courtesies offered other customers including, but not limited to, bonus cards, multiplying of coupon values, and additional products for free, or
 10. requiring WIC participants to sign WIC vouchers without first entering the redeemed date and/or redeemed amount, or
 11. failing to obtain a signature on WIC vouchers at the time of the transaction, or
 12. redeeming WIC vouchers not valid for the month in which they are redeemed, or
 13. failing to conduct WIC transactions only on the merchant's premises.
- (g) Warning for each violation. Any combination of the following violations occurring four or more times within a contract period may result in non-renewal of the WIC Contractual Agreement:
1. failing to have a current WIC Food List available at all check-out stations to assist employees and WIC participants, or
 2. failing to post other applicable materials upon request of an authorized WIC representative in such a way to make participants aware that the merchant accepts WIC vouchers, or
 3. failing to accurately complete the WIC Grocer Price Report Card, or
 4. failing to submit, including failing to return by the required date, the WIC Grocer Price Report Card, or
 5. failing to serve as or to designate a responsible contact person, or
 6. failing to notify the WIC program of a name and/or location change (with no ownership change), or
 7. failing to return a replaced State of Tennessee Vendor Stamp.
- (3) The WIC merchant may appeal any sanction or other adverse action taken against them, except for expiration of the WIC Merchant Contractual Agreement, any WIC Program determination regarding participant access, or an action resulting from a disqualification from the Food Stamp Program. The WIC Program shall provide fifteen (15) calendar days prior notice of a sanction action being taken against a merchant, except for permanent disqualification as

described in subpart (a) of paragraph (2) of this rule. This notice shall contain the violation(s) used for the decision, procedure to file for an administrative review, effective date of the sanction(s), time period allowed to appeal, and any other pertinent information. The merchant's request for an administrative hearing in order to appeal the actions of the WIC Program must be received within fifteen (15) calendar days from the date of receipt of the notice. All hearings will be conducted in accordance with the Uniform Administrative Procedures Act, *T.C.A. §4-5-101, et seq.*

- (4) Specific program violations result in sanctions being taken against the WIC merchant by State and federal programs. WIC merchants who are disqualified by the Food Stamp Program shall also be disqualified by the Program for the same length of time, unless doing so would place a hardship on participants.
- (5) A civil money penalty may be imposed when disqualification would place a hardship upon participants who normally redeemed their vouchers at that location. The participant access determination must be made in writing by the Department and is not subject to appeal by the WIC merchant. The guidelines for imposing civil money penalties and situations when they can be imposed are contained in 7 CFR Part 246 and described in the WIC Merchant Handbook based on either WIC Program or Food Stamp Program disqualification. A civil money penalty issued in lieu of permanent disqualification shall be \$10,000. For any other period of disqualification, it shall not exceed \$10,000 for each violation or \$40,000 for multiple violations.
- (6) A WIC merchant committing fraud or abuse of the Program is subject to prosecution under applicable federal, State, or local laws.

Authority: *T.C.A. §§ 4-5-202, 4-5-209, and 68-1-106.*

1200-15-2-.09 NON-DISCRIMINATION.

- (1) The Program is governed by the following USDA non-discrimination statement for participation in the Program as either a participant or WIC merchant:
- (2) "The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (e.g., Braille, large print, audiotape) should contact USDA'S TARGET Center at (202) 720-2600 (voice and TDD).
- (3) To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer."

Authority: *T.C.A. §§ 4-5-202, 4-5-209, and 68-1-106.*

REPEALS

Rule 1200-15-2 Special Supplemental Nutrition Program For Women, Infants and Children in their present form are repealed.

The notice of rulemaking set out herein was properly filed in the Department of State on the 21st day of December, 1999. (12-19)

**THE TENNESSEE DEPARTMENT OF MENTAL HEALTH
AND MENTAL RETARDATION – 0940**

DIVISION OF MENTAL HEALTH SERVICES

The Tennessee Department of Mental Health and Mental Retardation will hold a public hearing to consider the promulgation of new rules pursuant to *Tenn. Code Ann., Section 33–2–904*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tenn. Code Ann., Section 4–5–204*, and will take place in the First Floor Hearing Room, Andrew Johnson Tower, 725 James Robertson Parkway, Nashville, Tennessee, at 10:00 a.m., central time on the 28th day of February, 2000.

Written comments will be considered if received by close of business, February 25, 2000, at the DMHMR Office of Legal Counsel, Twenty-Sixth Floor, W. R. Snodgrass Building, 312 Eighth Avenue North, Nashville, Tennessee 37243.

Individuals with disabilities who wish to participate in these proceedings or review these filings should contact the Tennessee Department of Mental Health and Mental Retardation, to discuss any auxiliary aids or services needed to facilitate such participation or review. Such contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to the scheduled meeting date or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Mental Health and Mental Retardation ADA Coordinator, Dr. Lindsey Douglass, Third Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, Tennessee 37243. Dr. Douglass' telephone number is (615) 741-7440; the department's TDD is (615) 532-6612. Copies of the notice are available from the Tennessee Department of Mental Health and Mental Retardation in alternative format upon request.

For a copy of the notice of rulemaking hearing, contact: Anita M. Daniels, Office of Legal Counsel, Tennessee Department of Mental Health and Mental Retardation, Twenty-sixth Floor, W. R. Snodgrass Building, 312 Eighth Avenue North, Nashville, Tennessee 37243; telephone (615) 532-6520

SUBSTANCE OF PROPOSED RULES

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0940–3–6–.01 PURPOSE

- (1) These rules are adopted by the Commissioner of the Department of Mental Health and Mental Retardation to implement the Community Mental Health Center Cooperation Act of 1998 (“Act”), *Tennessee Code Annotated, Section 33–2–901 et seq.* The Act, under certain circumstances, allows two or more community mental health centers within the State of Tennessee to negotiate and enter into a cooperative agreement between or among themselves upon making an application to the Department for a certificate of public advantage (“COPA”). The Tennessee Department of Mental Health and Mental Retardation (“Department”) shall issue a COPA to applicants if the Department determines, in consultation with and agreement from the Office of Attorney General for the State of Tennessee, that the likely benefits resulting from the cooperative agreement outweigh any disadvantages attributable to a reduction in competition that may result from the cooperative agreement.
- (2) After the granting of a COPA, the Department and the Attorney General shall actively and continually supervise and oversee the implementation and operation of the cooperative agreement.

0940–3–6–.02 DEFINITIONS

The following definitions shall apply to terms as they appear in these rules of the Tennessee Department of Mental Health and Mental Retardation, unless the context clearly requires otherwise.

- (1) “Applicant” or “applicants” means a community mental health center that is a party to a cooperative agreement for which an application for a certificate of public advantage is submitted.
- (2) “Attorney General” means the Office of the Attorney General for the State of Tennessee.
- (3) “Certificate Holder” means a community mental health center that is a party to a cooperative agreement that has received a certificate of public advantage.
- (4) “Certificate of Public Advantage” or “COPA” means the certificate, issued by the Department, that approves and authorizes a cooperative agreement.
- (5) “Commissioner” means the Commissioner of Mental Health and Mental Retardation or his or her designee.
- (6) “Community mental health center” means:
 - (a) A community mental health center as defined in *Tennessee Code Annotated, Section 33-1-101(23)*; or
 - (b) Any parent or corporate affiliate of a community mental health center.
- (7) “Cooperative agreement” means an agreement among two (2) or more community mental health centers for the offering, provision, operation, coordination, planning, funding, pricing, contracting, utilization review, or management of mental health and related services pursuant to programs funded or administered by departments or agencies of state government, including, but not limited to, the TennCare program, or the sharing, allocation, or referral of patients, personnel, instructional programs, support services, ancillary services, and facilities, or other services traditionally offered by community mental health centers for such programs.
- (8) “Department” means the Tennessee Department of Mental Health and Mental Retardation.
- (9) “Intervenor” means any hospital, physician, allied health professional, healthcare provider or other person furnishing goods or services to, or in competition with, a community mental health center, insurer, hospital service corporation, medical service corporation, hospital and medical services corporation, preferred provider organization, health maintenance organization, behavioral health organization, or any employer or association that directly or indirectly provides health care benefits to its employees or members.
- (10) “Newspaper of General Circulation” means a publication regularly issued at least as frequently as once a week for a definite price, having a second-class mailing privilege, being not less than four (4) pages, published continuously during the immediately preceding one-year period, which is published for the dissemination of news of general interest, and is circulated generally in the county or counties in which it is published and in which notice is given. A “newspaper of general circulation” shall not be construed to include a newspaper which is not engaged in the distribution of news of general interest to the public, but which is primarily engaged in the distribution of news of interest to a particular group of citizens.
- (11) “Notice of Completion of Application” means a written notice from the Department to the applicants indicating that their application is complete.
- (12) “Person” is as defined in *Tennessee Code Annotated, Section 68-11-102(13)*.
- (13) “Relevant Market” has the same meaning as under the federal Sherman Anti-Trust Act and specifically includes the geographic area in which consumers of mental health services could practicably obtain substitute services for those services offered under the cooperative agreement. [alternative definition: (13) “Relevant Market” means a county within which services are offered pursuant to a cooperative agreement unless circumstances show that consumers of mental health services could practicably obtain substitute services for those services offered under the cooperative agreement in a larger or smaller geographic area.]
- (14) “Renewal Application” means an application submitted by certificate holders in order to renew a COPA.

- (15) “Shall” or “Must” indicates a mandatory provision.
- (16) “Should” or “May” indicates a suggestion or a recommendation.

0940-3-6-.03 APPLICATION PROCEDURES

- (1) The application procedures for obtaining a COPA are as follows:
 - (a) Parties to a cooperative agreement seeking a COPA shall jointly apply to the Department for a COPA approving and authorizing that cooperative agreement by submitting one COPA application form on behalf of all parties to a single cooperative agreement.
 - (b) The original and two copies of the application must be submitted to the Department.
 - (c) A copy shall also be submitted by the applicants to the Attorney General the same day that the original is filed with the Department.
- (2) The COPA application form:
 - (a) shall identify the legal name or names of each applicant and the address of the principal business office of each applicant;
 - (b) shall identify the name, business address, business telephone number, and facsimile copier number of the person(s) authorized to receive notices and communications with respect to the application for each applicant and to answer questions from the Department regarding the cooperative agreement;
 - (c) shall attach an executed written copy of the cooperative agreement for which the application is being made;
 - (d) shall present a description of the activity that is the subject of the cooperative agreement, including the duration of the cooperative agreement, and a description of the relevant market;
 - (e) shall present a description of any consideration, direct or indirect, attributable to the activity contemplated under the cooperative agreement that passes to any party to the cooperative agreement;
 - (f) shall address each of the following benefits that might result from the cooperative agreement:
 - 1. enhancement of the quality of mental health and mental health-related care provided to Tennessee citizens, especially those receiving such services pursuant to programs funded or administered by departments or agencies of state government;
 - 2. preservation of community mental health facilities in geographical proximity to the communities traditionally served by those facilities;
 - 3. gains in the cost-efficiency of services provided by the community mental health centers involved;
 - 4. improvements in the utilization of mental health resources and equipment;
 - 5. avoidance of duplication of mental health resources; and
 - 6. enhancement of the efficiency of the administration of programs of state government to provide mental health services to citizens of Tennessee.
 - (g) shall address each of the following potential disadvantages that might be attributable to any reduction in competition likely to result from the cooperative agreement:

1. the extent of any likely adverse impact on the ability of health maintenance organizations, preferred provider organizations, managed health care organizations, or other health care payers to negotiate optimal payment and service arrangements with community mental health centers, or other health care providers;
 2. the extent of any reduction in competition among physicians, allied health professionals, other health care providers, or other persons furnishing goods or services to, or in competition with, community mental health centers that is likely to result directly or indirectly from the cooperative agreement;
 3. the extent of any likely adverse impact on patients in the quality, availability, and price of health care services; and
 4. the availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition likely to result from the agreement.
 - (h) shall attach copies of all required public notifications.
- (3) The rules governing the acceptance of the application and the application filing fee are as follows:
- (a) The Department shall accept an application for review and issue a Notice of Completion of Application once the following occur:
 1. the application has been received by the Department and the Attorney General;
 2. all public notice provisions have been satisfied;
 3. a non-refundable application fee of \$300.00 has been received;
 - (b) If the Department determines that the application is incomplete, the Department shall not issue the Notice of Completion of Application until the deficiencies in the Application have been cured.
 - (c) In the event that a material change occurs with respect to any information submitted by the applicants in the application, the applicants shall timely provide to the Department a detailed written description of the change. Failure to provide the Department with such written description may result in the rejection of the application by the Department.
 - (d) If the cooperative agreement primarily relates to a program funded or administered by another department or agency of the government of the state of Tennessee, the Department may refer the application to that other department or agency to conduct the review and render the decision required by rule 0940-3-6-.05(4).
- (4) The rules governing public notice are as follows:
- (a) The applicants shall jointly submit a proposed state register notice for approval by the Department. The Department shall amend the notice, if necessary, to provide sufficient or accurate information and publish the notice in the *Tennessee Administrative Register*. The state register notice shall contain the following information:
 1. the filing date of the application;
 2. the name, address, and telephone number of the person authorized to receive notices and communications with respect to the application for each applicant; and
 3. a general description of the activity.
 - (b) The applicants shall jointly post public notice in newspapers of general circulation covering the proposed area to be served.

1. The format shall be in a manner prescribed by the Department.
 2. The notice shall be for one day only.
- (c) The applicant shall be responsible for all cost of public notices.

0940-3-6-.04 COMMENTS AND PUBLIC HEARING

- (1) Any intervenor shall have standing under *Tennessee Code Annotated, Title 4, Chapter 5*.
- (2) Any intervenor may provide written comments to the Department, or the other department or agency conducting the review, regarding the activity proposed in the public notice required by rule 0940-3-6-.03(4) by mailing such comments within fifteen (15) days after the notice's publication date.
- (3) A public hearing may only be held at the discretion of the Department after receiving a written request by an intervenor or an applicant within fifteen (15) days after the notice's publication date.
- (4) The public hearing shall be held for the purpose of gathering information pertinent to the issues listed in rule 0940-3-6-.03(2)(f, g).
- (5) Notice shall be provided as follows:
 - (a) The Department or the other department or agency conducting the review shall provide notice of the public hearing by publishing an advertisement in a newspaper of general circulation at least five (5) working days prior to the public hearing. The person requesting the hearing shall pay the costs of the advertisement.
 - (b) The person requesting the hearing shall provide notice to applicants and intervenors known to the person by telephone, fax, or letter timed so that the notice shall be received at least five (5) working days before the hearing.
- (6) The hearing shall be conducted in accordance with the Contested Case provisions of the Tennessee Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-301, et seq.*

0940-3-6-.05 REVIEW AND FINDINGS

- (1) The Department, or the other department or agency conducting the review, shall consult with the Attorney General regarding its evaluation of any potential reduction in competition resulting from a cooperative agreement. The Attorney General may consult with the United States Department of Justice or the Federal Trade Commission regarding its evaluation of any potential reduction in competition resulting from a cooperative agreement.
- (2) The Department shall grant or deny an application within sixty (60) days of the date of filing of the application. This time period shall be tolled upon issuance of a notice to hold an application hearing until completion of the hearing.
- (3) Notwithstanding rule 0940-3-6-.05(2), upon request by an applicant, the Department may elect to perform an expedited review when the cooperative agreement involves time-sensitive matters. If the Department elects to perform such an expedited review, the Department shall grant or deny an application within thirty (30) days of the date of filing of the application. This time period shall be tolled upon issuance of a notice to hold an application hearing until completion of the hearing.
- (4) The Department shall issue a COPA if it, or the other department or agency that conducted the review, determines that the likely benefits outweigh any disadvantages attributable to a reduction in competition that may result from the agreement. This determination shall be made by considering the following:
 - (a) the potential benefits of the cooperative agreement including but not limited to those listed in rule 0940-3-6-.03(2)(f);

- (b) the potential disadvantages of the agreement attributable to any reduction in competition likely to result from the cooperative agreement, including but not limited to those listed in rule 0940-3-6-.03(2)(g); and
 - (c) The review done by the Attorney General regarding its evaluation of any potential reduction in competition resulting from the agreement.
- (5) Upon making the determination to grant or deny an application, the Department shall send a copy of the decision notice to all applicants for the COPA in question and to the Attorney General. Notice to intervenors of the Department's decision shall be deemed sufficient by the Department's placing a copy of the COPA decision notice in the *Tennessee Administrative Register*.
- (6) If the Department, or the other department or agency that conducted the review, determines that the likely benefits resulting from a cooperative agreement do not outweigh any disadvantages attributable to any potential reduction in competition resulting from the agreement, the agreement is invalid and has no further force or effect.

0940-3-6-.06 APPEALS

Any applicant or intervenor aggrieved by a decision of the Department, or the other department or agency that conducted the review, in granting or denying an application, refusing to act on an application, or terminating a certificate, is entitled to judicial review of the decision in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

0940-3-6-.07 REGULATION AND SUPERVISION

- (1) Each cooperative agreement, and every party thereto, that is granted a COPA under the Act shall be subject to the active regulation of and supervision by the Department and the Attorney General with respect to the activity or activities contemplated under the COPA.
- (2) The Department shall maintain on file all cooperative agreements for which a COPA remains in effect.
- (3) The Department, or the other department or agency that conducted the review, shall review annually each COPA it has granted:
 - (a) All certificate holders must annually reapply for a COPA as follows:
 - 1. Parties to a cooperative agreement shall jointly submit a single renewal application on behalf of all parties to a single cooperative agreement.
 - 2. The original and two copies of the renewal application must be submitted to the Department or the department or other agency that conducted the review;
 - 3. The renewal application must comply with the requirements of rule 0940-3-6-.03(2), except that the renewal application need not contain copies of public notification as otherwise required by rule 0940-3-6.03(2)(h); and
 - 4. The renewal application must describe any material changes in the implementation or operation of the cooperative agreement, and must address any changes in competition in the relevant market bearing on the cooperative agreement.
 - (b) If the Department, or the other department or agency that conducted the review, determines that the COPA continues to comply with the standards listed in rule 0940-3-6-.05(3), the Department shall renew the COPA. If the Department, or the other department or agency that conducted the review, determines that the COPA no longer complies with the standards of rule 0940-3-6-.05(4), the Department may initiate contested case proceedings to terminate the COPA in accordance with *Tennessee Code Annotated, Title 4, Chapter 5*.

0940-3-6-.08 TERMINATION OF THE COPA BY CERTIFICATE HOLDERS. Any party to a cooperative agreement that terminates the agreement shall file a notice of termination with the Department within thirty (30) days after termination. Upon the consent of all certificate holders, certificate holders may voluntarily terminate a COPA by promptly giving joint written notice to the Department.

Authority: T.C.A. §33-2-901.

This notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of December, 1999. (12-33)

TENNESSEE WILDLIFE RESOURCES COMMISSION – 1660

There will be a hearing before the Tennessee Wildlife Resources Commission to consider the promulgation of (rules, amendments of rule, or repeals of rules) pursuant to *Tennessee Code Annotated, Section 70-1-206*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-204* and will take place in the Commission Conference Room of the Region 2 Office Building, located at Ellington Agricultural Center, Nashville, Tennessee, commencing at 9:000 A.M., on the 24th day of February, 2000.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Wildlife Resources Agency to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Tennessee Wildlife Resources Agency to determine how it may reasonable provide such aid or service. Initial contact may be made with the Tennessee Wildlife Resources Agency ADA Coordinator, Donna Woodward, Room 229, Tennessee Wildlife Resources Agency Building, Ellington Agricultural Center, Nashville, Tennessee 37204 and telephone number 615, 781-6594.

For a copy of this notice of rulemaking hearing, contact: Sheryl Holtam, Attorney 3, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, telephone number 615, 781-6606.

SUBSTANCE OF PROPOSED

AMENDMENT

Rule 1660-2-7-.22 Kentucky Lake is amended by adding a new paragraph (4) to read as follows:

- (4) All vessels being operated in the area of the confluence of the Beech River and Tennessee River (approximately Tennessee River Mile 135.7) upstream to the State Highway 100 bridge, as delineated by the appropriate buoys, shall operate at a “slow, no-wake” speed from May 1 until the Saturday after Labor Day.

Authority: T.C.A. §§70-1-206, 69-10-209

AMENDMENT

Rule 1660-1-2-.02 Migratory Bird Hunting is amended by deleting from Paragraph (1) ,the words, symbol and letter “Gooch-Unit A” and by substituting instead the words, symbol and letters “Gooch-Units A and E” so that as amended it shall read as follows:

- (1) The following regulations apply only to Woods Reservoir of A.E.D.C., Barkley Units I and II, Cheatham Reservoir, Land Between the Lakes- Bear Creek Unit, Old Hickory-Units I and II, Camden-Units I and II, Big Sandy, Cordell Hull, Gooch-Units A and E, New Hope, Lick Creek, Harmon’s Creek, Reelfoot and Tigrett Wildlife Management Areas, except for portions of Barkley and Cheatham Reservoir Wildlife Management Areas as noted in paragraph (3) of these Rules and Regulations:

Rule 1660-1-2-.02 is further amended by deleting from Subparagraph (a) of Paragraph (1) the words, symbol and letter “Gooch-Unit A” and by substituting instead the words, symbol and letters “Gooch-Units A and E” so that as amended it shall read as follows:

- (a) No waterfowl hunting on Barkley, Camden - Unit I, Cheatham Reservoir, Cordell Hull, Gooch - Units A and E, Land Between the Lakes - Bear Creek Unit, Old Hickory - Units I and II, and Woods Reservoir of A.E.D.C. Wildlife Management Areas during the late water fowl seasons, except from fixed (floating or post type) blinds, registered with the Tennessee Wildlife Resources Agency except as provided for in proclamation and as exempted in subparagraphs (f) and (g) below. Permanent and temporary blinds must be within five (5) feet of designated stakes.

Rule 1660-1-2-.02 is further amended by adding in Subparagraph (a), of Paragraph (2), the words, symbols and letters "Gooch - Units B,C and D, between the words and punctuation 'Island,'" and the word "and" so that as amended it shall read as follows:

- (a) A.E.D.C. (Except Woods Reservoir), Anderson Tully, Cottonport, Yellow Creek, Long Island, Lick Creek, New Hope, Percy Priest - Unit II, Candies Creek, Roger's Creek, Johnson Bottoms, Mark's Creek Unit of Cheatham Reservoir, and areas as specified under proclamation of Cheatham Reservoir, White Oak, that area of Barkley Reservoir as specified under annual proclamation, that portion of Old Hickory - Unit III, from Mile No. 268 upstream to the abandoned Lock and Dam site No. 6 at approximately Mile No. 281, Ernest Rice, Sr., Obion River, Moss Island, Gooch - Units B,C and D and Wolf River.

Subparagraph (b) of Paragraph (2) of Rule 1660-1-2-.02 is amended by deleting it in its entirety.

Subparagraph (c) of Paragraph (2) of Rule 1660-1-2-.02, is amended by adding a new Part 16, which shall read as follows:

- 16. The Wildlife Resources Commission shall review this Rule every four (4) years.

Authority: T.C.A. § 70-1-206.

The notice of rulemaking setout herein was properly filed in the Department of State on the 30th day of December, 1999. (12-28)

BOARD OF VETERINARY MEDICAL EXAMINERS-1730

There will be a hearing before the Tennessee Board of Veterinary Medical Examiners to consider the promulgation of amendments to rules pursuant to *T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, and 63-12-135*. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated, Section 4-5-204* and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 24th day of February, 2000.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the Division's ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1730-1-.06, Fees, is amended by deleting subparagraph (1) (d) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraphs (1) (g) and (3) (g) and renumbering the remaining subparagraphs accordingly, so that as amended, the new subparagraphs (1) (d), (1) (g), and (3) (g) shall read:

- (1) (d) Late Renewal Fee – A non-refundable fee to be paid when an individual fails to timely renew a license, but has not yet been administratively revoked, pursuant to rule 1730–1–.09.
- (1) (g) Reinstatement Fee – A non-refundable fee to be paid when an individual is seeking reinstatement of an administratively revoked license, pursuant to rule 1730–1–.09.
- (3) (g) Reinstatement Fee \$ 320.00

Authority: T.C.A. §§4–3–1011, 4–5–202, 4–5–204, 63–12–105, 63–12–106, and 63–12–121.

Rule 1730–1–.09, Renewal of License, is amended by deleting parts (2) (a) 1. and (2) (a) 2. in their entirety and substituting instead the following language, so that as amended, the new parts (2) (a) 1. and (2) (a) 2. shall read:

- (2)(a) 1. Payment of the current renewal and state regulatory fees as provided in rule 1730–1–.06; and
- (2)(a) 2. Payment of the reinstatement fee as provided in rule 1730–1–.06.

Authority: T.C.A. §§4–3–1011, 4–5–202, 4–5–204, 63–12–105, 63–12–106, and 63–12–121.

Rule 1730–1–.11, Retirement and Reactivation of License, is amended by deleting paragraph (2) but not its subparagraphs in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) but not its subparagraphs shall read:

- (2) When a retired licensee wishes to reactivate his/her Tennessee license, said licensee shall pay the current renewal and state regulatory fees as provided in rule 1730–1–.06 and show evidence of the following:

Authority: T.C.A. §§4–3–1011, 4–5–202, 4–5–204, 63–12–105, 63–12–106, and 63–12–121.

Rule 1730–1–.15 Disciplinary Actions and Civil Penalties, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by adding the following language as new paragraph (7) so that as amended, the new catchline and paragraph (7) shall read:

1730–1–.15 DISCIPLINARY ACTIONS, CIVIL PENALTIES, AND ASSESSMENT OF COSTS.

- (7) Assessment of Costs - The imposition of a requirement that any person against whom sanctions have been imposed as a result of a disciplinary action pay the actual and reasonable costs of the prosecution of the case. When the Board, in any final order, requires the “payment of costs”, that requirement includes payment of the following:
 - (a) All costs attributed to and assessed against the Board by the Division’s Bureau of Investigations in connection with the prosecution of the matter including all investigator time, travel and lodging incurred during the prosecution.
 - (b) All costs assessed against the Board by the Division for the use of the Division facilities and personnel for prosecution of the matter.
 - (c) All costs assessed against the Board for the appearance fees, transcripts, time, travel and lodging of administrative law judges and court reporters and witnesses required in the prosecution of the matter.

Authority: T.C.A. §§4–5–202, 4–5–204, 63–12–105, 63–12–106, 63–12–121, 63–12–122, 63–12–124, 63–12–125, 63–12–128, 63–12–129, and 63–12–143.

Rule 1730–1–.19, Board Members, Officers, Consultants, Records, and Declaratory Orders, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by deleting paragraphs (1), (2), (3), (4) and (5) in their entirety, and renumbering the remaining paragraphs accordingly, so that as amended, the new catchline shall read:

1730–1–.19 BOARD CONSULTANTS, RECORDS AND COMPLAINTS, AND DECLARATORY ORDERS.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, and 63-12-107.

Rule 1730-2-.15 Disciplinary Actions and Civil Penalties, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by adding the following language as new paragraph (7) so that as amended, the new catchline and paragraph (7) shall read:

1730-2-.15 DISCIPLINARY ACTIONS, CIVIL PENALTIES, AND ASSESSMENT OF COSTS.

- (7) Assessment of Costs - The imposition of a requirement that any veterinary facility against whom sanctions have been imposed as a result of a disciplinary action pay the actual and reasonable costs of the prosecution of the case. When the Board, in any final order, requires the “payment of costs”, that requirement includes payment of the following:
 - (a) All costs attributed to and assessed against the Board by the Division’s Bureau of Investigations in connection with the prosecution of the matter including all investigator time, travel and lodging incurred during the prosecution.
 - (b) All costs assessed against the Board by the Division for the use of the Division facilities and personnel for prosecution of the matter.
 - (c) All costs assessed against the Board for the appearance fees, transcripts, time, travel and lodging of administrative law judges and court reporters and witnesses required in the prosecution of the matter.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-121, 63-12-122, 63-12-124, 63-12-125, 63-12-128, 63-12-129, and 63-12-143.

Rule 1730-3-.06, Fees, is amended by deleting subparagraph (1) (d) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraphs (1) (g) and (3) (g) and renumbering the remaining subparagraphs accordingly, so that as amended, the new subparagraphs (1) (d), (1) (g), and (3) (g) shall read:

- (1) (d) Late Renewal Fee – A non-refundable fee to be paid when an individual fails to timely renew a license, but has not yet been administratively revoked, pursuant to rule 1730-3-.09.
- (1) (g) Reinstatement Fee – A non-refundable fee to be paid when an individual is seeking reinstatement of an administratively revoked license, pursuant to rule 1730-3-.09.
- (3) (g) Reinstatement Fee \$ 80.00

Authority: T.C.A. §§4-5-202, 4-5-204, 4-3-1011, 63-12-105, 63-12-106, 63-12-121, and 63-12-135.

Rule 1730-3-.09, Renewal of License, is amended by deleting parts (2) (a) 1. and (2) (a) 2. in their entirety and substituting instead the following language, so that as amended, the new parts (2) (a) 1. and (2) (a) 2. shall read:

- (2)(a) 1. Payment of the current renewal and state regulatory fees as provided in rule 1730-3-.06; and
- (2)(a) 2. Payment of the reinstatement fee as provided in rule 1730-3-.06.

Authority: T.C.A. §§4-5-202, 4-5-204, 4-3-1011, 63-12-105, 63-12-106, 63-12-121, and 63-12-135.

Rule 1730-3-.11, Retirement and Reactivation of License, is amended by deleting paragraph (2) but not its subparagraphs in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) but not its subparagraphs shall read:

- (2) When a retired licensee wishes to reactivate his/her Tennessee license, said licensee shall pay the current renewal and state regulatory fees as provided in rule 1730-3-.06 and show evidence of the following:

Authority: T.C.A. §§4-5-202, 4-5-204, 4-3-1011, 63-12-105, 63-12-106, 63-12-121, and 63-12-135.

Rule 1730-3-.15 Disciplinary Actions and Civil Penalties, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by adding the following language as new paragraph (7) so that as amended, the new catchline and paragraph (7) shall read:

1730-3-.15 DISCIPLINARY ACTIONS, CIVIL PENALTIES, AND ASSESSMENT COSTS.

- (7) Assessment of Costs - The imposition of a requirement that any person against whom sanctions have been imposed as a result of a disciplinary action pay the actual and reasonable costs of the prosecution of the case. When the Board, in any final order, requires the “payment of costs”, that requirement includes payment of the following:
 - (a) All costs attributed to and assessed against the Board by the Division’s Bureau of Investigations in connection with the prosecution of the matter including all investigator time, travel and lodging incurred during the prosecution.
 - (b) All costs assessed against the Board by the Division for the use of the Division facilities and personnel for prosecution of the matter.
 - (c) All costs assessed against the Board for the appearance fees, transcripts, time, travel and lodging of administrative law judges and court reporters and witnesses required in the prosecution of the matter.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-121, 63-12-122, 63-12-124, 63-12-125, 63-12-128, 63-12-129, 63-12-135, and 63-12-143.

Rule 1730-3-.19, Board Members, Officers, Consultants, Records, and Declaratory Orders, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by deleting paragraphs (1), (2), (3), (4) and (5) in their entirety, and renumbering the remaining paragraphs accordingly, so that as amended, the new catchline shall read:

1730-3-.19 BOARD CONSULTANTS, RECORDS AND COMPLAINTS, AND DECLARATORY ORDERS.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-107, and 63-12-135.

Rule 1730-4-.06, Fees, is amended by deleting subparagraph (1) (c) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraphs (1) (h) and (3) (h), so that as amended, the new subparagraphs (1) (c), (1) (h), and (3) (h) shall read:

- (1) (c) Late Renewal Fee – A non-refundable fee to be paid when a C.A.C.A. fails to timely renew a license, but has not yet been administratively revoked, pursuant to rule 1730-4-.08.
- (1) (h) Reinstatement Fee – A non-refundable fee to be paid when a C.A.C.A. is seeking reinstatement of an administratively revoked license, pursuant to rule 1730-4-.08.
- (3) (h) Reinstatement Fee \$ 320.00

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-121, 63-12-139, and 63-12-141.

Rule 1730-4-.08, Renewal Application/Reinstatement of Administratively Revoked Certificate, is amended by deleting parts (2) (a) 1. and (2) (a) 2. in their entirety and substituting instead the following language, so that as amended, the new parts (2) (a) 1. and (2) (a) 2. shall read:

- (2) (a) 1. Payment of the current renewal and state regulatory fees as provided in rule 1730-4-.06; and
- (2) (a) 2. Payment of the reinstatement fee as provided in rule 1730-4-.06.

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-121, 63-12-139, and 63-12-141.

Rule 1730-4-.12 Disciplinary Actions and Civil Penalties, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by adding the following language as new paragraph (4) so that as amended, the new catchline and paragraph (4) shall read:

1730-4-.12 DISCIPLINARY ACTIONS, CIVIL PENALTIES, AND ASSESSMENT OF COSTS.

- (4) Assessment of Costs - The imposition of a requirement that any C.A.C.A. against whom sanctions have been imposed as a result of a disciplinary action pay the actual and reasonable costs of the prosecution of the case. When the Board, in any final order, requires the “payment of costs”, that requirement includes payment of the following:
 - (a) All costs attributed to and assessed against the Board by the Division’s Bureau of Investigations in connection with the prosecution of the matter including all investigator time, travel and lodging incurred during the prosecution.
 - (b) All costs assessed against the Board by the Division for the use of the Division facilities and personnel for prosecution of the matter.
 - (c) All costs assessed against the Board for the appearance fees, transcripts, time, travel and lodging of administrative law judges and court reporters and witnesses required in the prosecution of the matter.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-121, 63-12-122, 63-12-124, 63-12-125, 63-12-128, 63-12-129, and 63-12-143.

Rule 1730-5-.06, Fees, is amended by deleting subparagraph (1) (c) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraphs (1) (f) and (3) (f), so that as amended, the new subparagraphs (1) (c), (1) (f), and (3) (f) shall read:

- (1) (c) Late Renewal Fee – A non-refundable fee to be paid when an individual fails to timely renew a license, but has not yet been administratively revoked, pursuant to rule 1730-4-.08.
- (1) (h) Reinstatement Fee – A non-refundable fee to be paid when an individual is seeking reinstatement of an administratively revoked license, pursuant to rule 1730-4-.08.
- (3) (h) Reinstatement Fee \$ 100.00

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-121, 63-12-139, and 63-12-141.

Rule 1730-5-.08, Renewal Application/Reinstatement of Administratively Revoked Certificate, is amended by deleting parts (2) (a) 1. and (2) (a) 2. in their entirety and substituting instead the following language, so that as amended, the new parts (2) (a) 1. and (2) (a) 2. shall read:

- (2) (a) 1. Payment of the current renewal and state regulatory fees as provided in rule 1730-5-.06; and
- (2) (a) 2. Payment of the reinstatement fee as provided in rule 1730-5-.06.

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-121, 63-12-139, and 63-12-141.

Rule 1730-5-.09, Board Consultants, Records and Complaints, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by adding the following language as paragraph (5), so that as amended, the new catchline and the new paragraph (5) shall read:

1730-5-.09 BOARD CONSULTANTS, RECORDS AND COMPLAINTS, AND DECLARATORY ORDERS.

- (5) Declaratory Orders - The Board adopts, as if fully set out herein, rule 1200-10-1-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Board's administrative office.

Authority: *T.C.A. §§4-5-202, 4-5-204, 4-5-223, 4-5-224, 63-12-105, 63-12-106, and 63-12-107.*

Rule 1730-5-.12 Disciplinary Actions and Civil Penalties, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by adding the following language as new paragraph (4) so that as amended, the new catchline and paragraph (4) shall read:

1730-5-.12 DISCIPLINARY ACTIONS, CIVIL PENALTIES, AND ASSESSMENT OF COSTS.

- (4) Assessment of Costs - The imposition of a requirement that any person against whom sanctions have been imposed as a result of a disciplinary action pay the actual and reasonable costs of the prosecution of the case. When the Board, in any final order, requires the "payment of costs", that requirement includes payment of the following:
- (a) All costs attributed to and assessed against the Board by the Division's Bureau of Investigations in connection with the prosecution of the matter including all investigator time, travel and lodging incurred during the prosecution.
 - (b) All costs assessed against the Board by the Division for the use of the Division facilities and personnel for prosecution of the matter.
 - (c) All costs assessed against the Board for the appearance fees, transcripts, time, travel and lodging of administrative law judges and court reporters and witnesses required in the prosecution of the matter.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-121, 63-12-122, 63-12-124, 63-12-125, 63-12-128, 63-12-129, and 63-12-143.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 14th day of December, 1999. (12-05)

WILDLIFE PROCLAMATIONS

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

EMERGENCY PROCLAMATION 99-21

AMENDING PROCLAMATION 98-27 SPORT FISHING PROCLAMATION

Pursuant to the authority granted by *Title 70, Tennessee Code Annotated, and Sections 70-1-206, 70-4-107, and 70-4-119* thereof, the Tennessee Wildlife Resources Commission does hereby summarily amend Section II. WATERS WITH CLOSED SEASONS of Proclamation 98-27, SPORT FISHING PROCLAMATION, dated the 29th day of October, 1998.

SECTION II. WATERS WITH CLOSED SEASONS

Insert the following language:

- J. South Holston Tailwater - Closed to all fishing from December 1, 1999 through January 31, 2000 in the following areas:
 - 1). Hickory Tree Bridge upstream to the confluence with Bottom Creek.
 - 2). Downstream point of Boy's Island (the first island downstream of Weaver Pike Bridge) upstream to the top of the first island above Webb Road Bridge.

Proclamation 99-21 received and recorded this 14th day of December, 1999. (12-02)

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

SPORT FISHING PROCLAMATION 99-22

Pursuant to the authority granted by *Title 70, Tennessee Code Annotated, and Sections 70-4-107 and 70-4-119* thereof, the Tennessee Wildlife Resources Commission proclaims the following regulations, effective March 1, 2000.

SECTION I. ENDANGERED SPECIES, GENERAL SEASONS, CREEL AND POSSESSION LIMITS, AND MINIMUM LENGTHS

A. ENDANGERED SPECIES

All fish identified as endangered or threatened or listed as in need of management as proclaimed by the Tennessee Wildlife Resources Commission may not be taken.

B. GAME FISH SPECIES

The season is open year-round on the following species, unless otherwise specified in this proclamation. The possession limit is twice the daily creel limit.

Only the daily creel limit may be possessed while afield. It shall also be unlawful to possess while afield any fish which has been altered to the extent that its species and/or total body length cannot be determined. The length of a fish shall be determined with the fish laying on a flat ruler, the mouth closed, and the caudal (tail) fin lobes squeezed so as to produce the maximum length.

SPECIES	DAILY LIMIT	MINIMUM LENGTH
Rock bass	20	
Black bass (all species in combination).....	5	
Except as listed below and in Section V, VI, and VII	5	15"
All species from Indian Boundary Lake.....	2	14"
All species from Reelfoot Watershed Lake #18.....	5	15"
All Species from Gooch Unit E Lake.....	5	12"
LM and SM Bass from Fort Loudoun, Tellico, and Cherokee Reservoirs.....	5	14"*
except 2 LM Bass may be less than 14"		
LM from Norris Lake	5	14"
LM and SM Bass from Boone, Percy Priest, Tims Ford, and Normandy Reservoirs.....	5	15"
LM from Dale Hollow Reservoir	5	15"
LM from Barkley Reservoir	5	13"
LM Bass from Kentucky Lake.....	5	13"
SM Bass from Dale Hollow Reservoir	2*	16-21" slot
*protected slot 16-21", creel allows only one bass under 16" and one bass over 21"		
SM Bass from Pickwick Lake	5	14"
SM from Pigeon River		1
from the confluence with the French Broad River to North Carolina state line		20"
SM Bass from Kentucky Lake (TN River) from the Savannah Bridge (U.S. Hwy. 64) crossing upstream to Pickwick Dam.....	5	14"
SM Bass from Norris.....	5*	14-18" slot
*protected slot 14-18", creel limit only allows one fish over 18"		
Spotted bass from Norris Reservoir.....	15	None

Note: For this proclamation, a spotted bass is defined as any black bass that has a patch of teeth on the central portion of the tongue.

* See Special Definition Section for specific area descriptions of Cherokee, Norris, and Boone Reservoirs where size limits on smallmouth bass and largemouth bass apply.

Sauger except as listed below..	15	15"
from Kentucky Lake.....	15	14"
Walleye except as listed below.....	5	16"
Walleye from Tellico Reservoir.....	5*	15"
*only one can be 24" or larger		
Walleye or sauger or in combination from Cherokee,		

	DAILY LIMIT	MINIMUM LENGTH
Douglas, Fort Loudoun, Melton Hill, South Holston, Tellico, Watauga Reservoirs and their tributaries.....	10	15"
Walleye or sauger or in combination from Norris Reservoir and its tributaries.....	5	15"
Walleye, sauger, saugeye or in combination from Normandy Reservoir and its tributaries	15	15"

Note: For this proclamation, any walleye-sauger hybrid (saugeye) is considered the same as a sauger.

Striped Bass or Cherokee Bass (Striped Bass x White Bass Hybrid) or in combination except as listed below....	2	15"
On Norris Reservoir during April through October statewide regulations apply, but during November through March the creel and size limits are.....	1	24"
Muskellunge	1	30"
Crappie (white and black combined).....	30	10"
Except for the following:		
from Reelfoot Lake.....	No limit	
from private waters.....	30	
from Mississippi River.....	30	
(river proper, sloughs and oxbows, the Hatchie, Loosahatchie, from Norris Reservoir.....	10	10"
from Dale Hollow and Center Hill Lakes.....	15	10"
from Boone Reservoir.....	20	10"
from Pickwick and Guntersville Reservoirs.....	30	9"
from State Park Lakes.....	30	No limit
White bass.....	30	
Northern pike.....	1	30"
Yellow bass.....	No limit	
Bluegill and other bream.....	No limit	
Except for the following:		
from Norris Lake.....	30 No Limit
Pickrel.....	No limit	
Yellow perch.....	No limit	
Trout (combined daily creel limit-all trout).....	Brook trout only	
Lake trout.....	2	

See Sections II, III, and IV for other trout regulations.

C. NON-GAME FISH SPECIES

The season is open year-round unless otherwise specified in this proclamation. It shall be unlawful to possess while afield any fish which has been altered to the extent that its species and/or total body length cannot be determined. The length of a fish shall be determined with the fish laying on a flat ruler, the mouth closed, and the caudal (tail) fin lobes squeezed so as to produce the maximum length.

	Creel Limit	Minimum length
Non-game species except as listed below and in Section V, VI and VIII.....	No limit	
Catfish (blue and channel) when taken from Allen Branch Pond, and Indian Boundary Lake.....	5	
Beech River Watershed Lakes.....	5	15"
Paddlefish*	1	30"

* May be harvested from March 1-March 15 from Cherokee Reservoir only

SECTION II. WATERS WITH CLOSED SEASONS

A. Land Between the Lakes Wildlife Management Area:

All waters open year-round, except the following:

- (a) Bear Creek Waterfowl Management Unit - closed to all fishing during duck hunting season.
- (b) Farm ponds - Open to fishing except those ponds posted as closed. Fishing permitted from 1/2 hour before official sunrise to 1/2 hour after official sunset.
- (c) Bards Lake - Trotlines and limblines prohibited. Jugs permitted from October 1 through March 21 with a limit of 10 per person.

B. Catoosa Wildlife Management Area:

All streams and ponds are open from April 1 through December 31, except on dates of managed big game and turkey hunts.

- C. Woods Reservoir: See Proclamation 74-17 for areas closed to fishing.
- D. Buffalo Creek (Grainger County): Closed to all fishing and minnow seining from the mill dam upstream.
- E. Doakes Pond (Norris Reservoir) - That portion of Norris Reservoir known as Doakes Pond (a sub-impoundment), located adjacent to Highway 63 approximately 9 miles NE of LaFollette, is closed to fishing.
- F. South Holston Reservoir: Closed to trout fishing December 1 through the last day of February.
- G. Center Hill Lake and Tributaries - Closed to taking or possessing of paddlefish.
- H. Clear Creek (tributary to the Clinch River, Anderson County) - closed to all fishing including minnow seining from Highway 441 upstream to the second dam (adjacent to the City of Norris water tower), as posted, from December 1 through March 31.
- I. All TWRA and USFWS hatchery ponds and raceways are closed to fishing year-round.
- J. Little Buffalo River, Laurel Hill WMA - Closed to all fishing from March 1 through April 30.
- K. South Holston Tailwater - Closed to all fishing from November 1 through January 31 in the following areas:

- 1) Hickory Tree Bridge upstream to the confluence with Bottom Creek.
- 2) Downstream point of Boy's Island (the first island downstream of Weaver Pike Bridge) upstream to the top of the first island above Webb Road Bridge.

SECTION III. CHEROKEE WILDLIFE MANAGEMENT AREA - SPECIAL REGULATIONS

1. Tellico Area - Daily Permit Required

- Tellico River from its confluence with Turkey Creek upstream to the Tennessee-North Carolina state line during the period March 15 through September 15
- Citico Creek upstream from its confluence with Little Citico Creek during the period March 15 through September 15
- Green Cove Pond (see Section III 6)
- a. Fishing permitted year-round. Closed on Thursday and Friday, during the period March 15 through September 15 (except when national or state holidays fall on Thursday or Friday). From September 16 through March 14 fishing is allowed every day and no permit is required.
- b. Daily limit - 7 trout; possession limit - 14 trout.
- c. Fishing permitted from 1/2 hour before official sunrise to 1/2 hour after official sunset. The possession of fishing equipment and/or tackle is prohibited on stream banks except during legal fishing hours.
- d. Each fisherman permitted only one rod or pole.

2. Wild Trout Streams

GROUP I

- North River and tributaries
- Bald River and tributaries
- North Fork of Citico Creek and tributaries
- South Fork of Citico Creek and tributaries
- Laurel Fork and tributaries on Cherokee WMA beginning at the cable crossing 1/2 mile upstream from the USFS Dennis Cove Recreation Area and extending upstream
- Gee Creek and tributaries in Polk County
- Wolf Creek and tributaries in Polk County
- Beaverdam Creek and tributaries from its confluence with Birch Branch downstream to Tank Hollow Road (USFS Rd. 6044)
- Paint Creek and tributaries in Greene County-from USFS campground upstream to U.S. Forest Service Boundary line south of Highway 70 near Munday Gap.
- a. Fishing permitted year-round.
- b. Daily limit - 3 trout; possession limit - 6 trout.
- c. Size limit - Rainbow and brown trout.....9 inches minimum
Brook trout.....6 inches minimum
- d. Use or possession of any bait other than single hook artificial flies, spinners, and spoons is prohibited. The use of one dropper fly having a single hook which is separated from a legal lure by a length of line is permissible.

- e. Fishing permitted from 1/2 hour before official sunrise to 1/2 hour after official sunset.
- f. Each fisherman permitted only one rod or pole.

GROUP II

--Rocky Fork Creek and tributaries on lands owned by SF Rocky Fork Holdings, Inc.

--Higgins Creek and tributaries

--Squibb Creek and tributaries

--Sarvis Cove and tributaries

--Dry Creek and tributaries (Greene County) upstream from the U.S. Forest Service boundary.

--Sycamore Creek and tributaries

--Rough Ridge Creek and tributaries

- a. Fishing permitted year-round.
- b. Daily limit - 7 trout; No more than 3 may be brook trout.
Possession limit - 14 trout; No more than 6 may be brook trout.
- c. Size limit - Rainbow and brown trout.....No minimum
Brook trout.....6 inches minimum
- d. Use or possession of any bait other than single hook artificial flies, spinners, and spoons is prohibited. The use of one dropper fly having a single hook which is separated from a legal lure by a length of line is permissible.
- e. Fishing permitted from 1/2 hour before official sunrise to 1/2 hour after official sunset.
- f. Each fisherman permitted only one rod or pole.

3. Calderwood Reservoir

- a. Appropriate licenses from Tennessee or North Carolina are legal on the entire reservoir while fishing from a boat.
- b. Fishing permitted year-round.
- c. Size limit - none
- d. Daily limit - 7 trout; possession limit - 14 trout
- e. Trotlines and limblines prohibited.

4. Slickrock Creek

--That portion of Slickrock Creek which constitutes the boundary between the states of Tennessee and North Carolina.

- a. Appropriate licenses from Tennessee or North Carolina are valid on this portion of Slickrock Creek.
- b. Fishing permitted year-round.
- c. Daily limit - 4 trout; possession limit - 8 trout.

- d. Size limit - Rainbow, brown, and brook trout.....7 inches minimum
 - e. Fishing permitted one-half hour before sunrise to one-half hour after sunset.
 - f. Use or possession of any bait other than single hook artificial lures is prohibited. The use of one dropper fly, having a single hook which is separated from a legal lure by a length of line is permissible.
 - g. Each fisherman permitted only one rod or pole.
5. All other streams in the Cherokee Wildlife Management Area not listed above.
- a. Fishing permitted daily.
 - b. Daily limit - 7 trout; possession limit - 14 trout.
 - c. Each fisherman permitted only one rod or pole.
6. Green Cove Pond
- Fishing permitted year-round. Closed on Thursday and Friday (except when national or state holidays fall on Thursday or Friday) during the period March 1 through September 30.
- a. Fishing limited to handicapped individuals (see Section XVI), children under age 13 and adults 65 years of age and older.
 - b. Tellico-Citico daily permit required.
 - c. Season is open year-round.
 - d. Days closed - Thursday and Friday except open on all state and national holidays and scheduled special organized handicapped or children fishing events.
 - e. Creel limit - 7 trout per day.
 - f. Size limit - no restrictions.
 - g. Hours open - one-half hour before sunrise to one-half hour after sunset.
 - h. Bait restrictions - no minnows.

SECTION IV. TROUT FISHING - SPECIAL REGULATIONS

- A. Quality Trout Fishing Areas:
The areas listed below are designated as quality trout fishing areas and all have regulations as described in 1 a., b., c., and d. below.
- 1. Hiwassee River: That portion of the Hiwassee River from the L & N Railroad Bridge upstream to the U.S. Forest Service's "Big Bend Parking Area".
- Watauga River: That portion of the Watauga River from Smalling Bridge downstream to the bridge at the town of Watauga.

Little Buffalo River (Lawrence County): That portion of the Little Buffalo River within the Laurel Hill WMA from the Finnie Road crossing upstream (Closed to fishing from March 1 through April 30).

- a. Daily limit - 2 trout; Possession limit - 2 trout.
- b. Size limit - 14" minimum.
- c. Use or possession of any bait other than artificial lures is prohibited.
- d. Trout less than 14" in length may not be possessed within quality trout fishing areas.

B. City of Gatlinburg:

1. Waters Open:

The taking of trout is permitted within the streams designated below and under the limits and during the times contained herein.

a. General Streams:

- West Prong Little Pigeon River from Park Boundary to Gnatty Branch except those sections set aside Children's Streams.
- Dudley Creek from Park Boundary to West Prong Little Pigeon River, except those sections set aside as Children's Streams.
- Roaring Fork upstream to the Park Boundary.
- Leconte Creek from Painter Branch to West Prong Little Pigeon River.

b. Children's Streams (may only be fished by children 12 and under)

- Leconte Creek from Painters Branch upstream to Park Boundary.
- West Prong Little Pigeon River from 100 yards above entrance of North Gatlinburg Park downstream to Gatlinburg By-pass Bridge.
- Dudley Creek from Highway 441 Bridge to West Prong Little Pigeon River.

2. Season and Creel Limits:

- a. Fishing permitted year-round, except on Thursday, from 1/2 hour before official sunrise to 1/2 hour after official sunset.

1). From December 1 through March 31:

- a). Possession of any trout shall be prohibited.
- b). All trout caught must be immediately returned to the water.
- c). Use or possession of any bait other than single hook artificial flies, spinners, and spoons is prohibited. The use of one dropper fly having a single hook which is separated from a legal lure by a length of line is permissible.

2). From April 1 through November 30:

- a). Daily creel limit shall be five (5) trout.
- b). Total possession limit shall not exceed twice the daily creel limit
- c). While fishing or when afield, possession of more than the daily creel limit shall be prohibited, regardless of whether the trout are fresh, stored in an ice chest, in a vehicle, or otherwise preserved.

b. Creel Limits:

- General Streams - The creel limit is five (5) trout per day.
- Children's Streams - The creel limit is two (2) per day for children twelve (12) and under.

c. Methods: Fishing is permitted with one hand-held rod and single hook only.

d. Daily Fees:

1. In addition to the State licensing requirement, all Tennessee Residents ages 9 through 64 must possess a special Gatlinburg daily permit. The permit fee is \$2.00; provided that a non-resident may purchase a 1-day all inclusive permit, in lieu of the normal license/permit combination for a total fee of \$10.00. Non-residents under the age of 9 are exempt from the Gatlinburg daily permit.

C. Dale Hollow Reservoir:

1. April 1-October 31 - Daily creel limit.....7 trout
No more than 2 may be lake trout.....no size limit
2. November 1-March 31 - Daily creel limit ...2 trout
Minimum size limit...22 inches

D. Horse Creek (Greene County):

That portion from the U.S. Forest Service boundary line upstream to the junction of Squibb Creek.
Creel limit: 7 per day except from May 1-September 30 when the limit is 2 per day.

E. South Fork of the Holston River:

From the South Holston Dam to Highway 37 Bridge at Bluff City -
16-22 inch slot (protected length range) and 7 trout creel limit, only 1 of which can over 22 inches.

SECTION V. WILDLIFE AGENCY LAKES

A. Lakes in the Wildlife Agency Lakes Management System are: Coy Gaither-Bedford, Browns Creek, Carroll, Davy Crockett (Humboldt), Garrett, Graham, Herb Parsons, Laurel Hill, Maples Creek, Marrowbone, VFW, Whiteville, Williamsport, Glenn Springs, and Reelfoot-Indian Creek Watershed Lakes.

B. Seasons, Creel Limits, Size Limits, and Hours of Operation

1. Unless noted in Section II. Wildlife Agency Lakes are open year-round. Lakes will be open 1/2 hour before sunrise and close 1/2 hour after sunset.
Except Garrett Lake is open 24 hours.

2. Creel and Size Limits:

Statewide limits apply except as listed below:

	DAILY LIMIT	MINIMUM LENGTH
Catfish (blue and channel combined).....	5	
from Bedford.....	5	14"
Black bass (all species)		
from Glenn Springs Lake.....	5	14-18" slot
only 1 bass per day greater than 18"		
from Carroll Lake.....	5	15"

from Garrett Lake.....	5	15"
from Whiteville Lake.....	5	14"
from Marrowbone Lake.....	5	14-18" slot
	DAILY	MINIMUM
	LIMIT	LENGTH
from Lake Graham.....	10	14-18" slot
only 1 bass per day greater than 18"		
from Browns Creek Lake.....	5	13-20" slot
only 1 bass per day greater than 20"		
from Herb Parsons Lake.....	10	14-18" slot
Only bass having a length less than		
14" or greater than 18" may be in		
possession		

C. Williamsport Public Fishing Lake:

Largemouth Bass	1	20"
Catfish	5	14"
Bluegill	20	

Whipporwill Lake "youth fishing" only. Youths 16 and under and an accompanying adult may fish.

D. Laurel Hill Lake: Designate the embayment above the road that lies between the concession building and the campground as a "Youth fishing" only fishing area. Youths 16 and under may fish.

E. Methods:

1. Except for jug fishing as listed below, only rods and reels, poles, and hand-held lines may be used.
2. Jug fishing will be permitted daily from April 1 through September 30 except Saturday, Sunday, Memorial Day, Independence Day, and Labor Day, and daily from October 1 through March 31. Jugs are limited to ten (10) per boat. Jugs must be marked with the owner's name and address.

SECTION VI. DEPARTMENT OF ENVIRONMENT AND CONSERVATION MANAGED LAKES

Statewide fishing regulations apply on lakes managed by the Tennessee Department of Environment and Conservation except as listed below:

Black bass from the following lakes must be a minimum of 15":

- Travis McNatt Lake, Big Hill Pond State Park
- Falling Water (Burgess Falls) Lake, Burgess Falls Natural Area
- Lake Lajoie, Chickasaw State Park
- Lake Placid, Chickasaw State Park
- Byrd Lake, Cumberland Mountain State Park
- Lake Lindsey, David Crockett State Park
- Fall Creek Lake, Fall Creek Falls State Park
- Sullivan's Pond, Ft. Pillow State Historic Area
- Indian Mt. "B" Lake, Indian Mountain State Park
- Acorn Lake, Montgomery Bell State Park
- Creech Hollow Lake, Montgomery Bell State Park
- Kelly (Standing Stone) Lake, Standing Stone State Park

Black bass from:

- Big Ridge Lake, Big Ridge State Park, must be a minimum of 14"

Black bass fishing on the following lakes is restricted to catch-and-release only; i.e., all black bass caught must be immediately released unharmed:

- Lake Woodhaven, Montgomery Bell State Park
- Cub Lake, Natchez Trace State Park

Channel or blue catfish or in combination:

- Daily creel limit of 5.

Crappie (white and black combined)

- Daily creel limit of 30
- No minimum size limit

SECTION VII. SPECIAL REGULATIONS ON LAKES CONTROLLED BY NON-STATE GOVERNMENTAL AGENCIES

1. Casper Lake (Shelby County) - The minimum size limit on black bass is 16" and the daily creel limit is
2. New Lake (Lewisburg) - Black bass: Creel limit-5; minimum length -13". Open 1/2 hour before sunrise to 1/2 hour after sunset. Only rods and reels and cane poles are permitted.

SECTION VIII. MINNOWS

1. The catching of minnows for the purpose of sale is prohibited in Cannon, Lincoln, Macon, Moore, Smith, Sumner, and Trousdale counties. The possession limit for minnows taken from streams in the above counties is 150 in Cannon, Macon, Smith Sumner, and Trousdale, 250 in Lincoln and Moore. It shall be unlawful to sell, take for sale, or offer for sale hornyhead minnows (stonerollers) in Carter, Unicoi, Washington, Johnson, Sullivan, and Morgan counties.
2. Minnow traps and seines as defined below may be used to catch minnows subject to all laws and regulations governing the catching of minnows.
 - a. A minnow trap is hereby defined as a device used for the purpose of catching minnows. The mouth opening or openings shall not exceed one and one-half (1 1/2") inches in diameter.
 - b. A minnow seine is hereby defined as a net having a mesh size no greater than three-eighths (3/8) of an inch on the square, and no greater than ten (10) feet in length.

SECTION IX. TURTLES

A. Species, Creel and Size Limits, and Seasons:

1. Only the Common Snapping Turtle - *Chelydra serpentina serpentina* - may be legally taken.
2. All turtles listed as endangered or threatened or listed as "In Need of Management" as proclaimed by the Tennessee Wildlife Resources Commission may not be taken, and include:
 - Bog Turtle - *Clemmys muhlenbergi*
 - Alligator Snapping Turtle - *Macrolemys temmincki*
 - Cumberland Slider - *Trachemys (Pseudemys) scripta troosti*
3. The season is open year-round.
4. The daily limit is 5. The possession limit is twice the daily creel limit. Only the daily creel limit may be possessed while afield.

5. The minimum legal length for the common snapping turtle is 12 inches. For purposes of this proclamation, the length of a turtle is determined by measuring the carapace (upper shell) from front to back.
6. Turtles may be taken by all legal sport fishing methods except archery and spear-guns.

Additionally, sport fishermen may take turtles by the use of up to three hoop nets having a minimum mesh size of three-inches (3") on the square in Benton, Carroll, Chester, Crockett, Decatur, Dyer, Fayette, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Houston, Humphreys, Lake, Lauderdale, McNairy, Madison, Obion, Perry, Shelby, Stewart, Tipton, and Weakley counties. Each net must be marked with the name and address of the owner. Each net must be set so that a portion of the catch area is above the water.

7. It shall be unlawful to possess while afield any turtle which has been altered to the extent that its species and/or length cannot be determined.
8. At the Reelfoot Wildlife Management Area, all sizes and species of turtles except box turtles and those in Item 2. above may be taken year-round with a daily limit of 5 by legal sport fishing methods.

SECTION X. GIGGING

- A. Gigging: The taking of fish by means of a hand-held pole or spear with a tip consisting of two or more sharpened and barbed points.
- B. Season open year-round except as noted below.
- C. Waters Open: All waters not closed in Paragraph D. below or elsewhere in this proclamation.
- D. Waters Closed:
 1. All streams in the following counties closed year-round:

--Bedford	--Lawrence	--Maury
--Giles	--Lewis	--Wayne
--Hickman	--Marshall	
 2. East Fork Obey River and tributaries closed January 1 through April 30.
 3. Norris Reservoir between River Mile 32 (Point 15) and the Highway 25E Bridge on the Powell River Arm and between River Mile 137 (Point 31) and the Highway 25E Bridge on the Clinch River Arm from January 1 through April 30.
 4. Elk River in Carter County from the Highway 321 Bridge downstream to RM 3.0 (Point 11) on the Elk River arm of Watauga Reservoir closed from December 1 through May 31.
- E. Species which may be taken and creel limits:
 1. Non-game species - no limit (except that no paddlefish may be harvested).

SECTION XI. GRABBLING, GRAB HOOKING, SNAGGING, TUBBING, ARCHERY, SPEAR-GUN FISHING, DIP-PING, AND CAST NETTING

- A. Season open year-round except as noted below.
- B. All waters open except:
 - 1. Within 100 yards below dams except at Pickwick the closed area will extend downstream to the first moorage cell located across from the boat launching ramp. At John Sevier Steam Plant the discharge channel is also closed. Dipping and cast netting are excluded from this restriction.
 - 2. Those areas closed to fishing listed in Section II.
 - 3. All waters closed by separate proclamation.
 - 4. Norris Reservoir between River Mile 32 (Point 15) and the Highway 25E Bridge on the Powell River Arm and between River Mile 137 (Point 31) and the Highway 25E Bridge on the Clinch River Arm from January 1 through April 30. Cast netting is excluded from this restriction.
 - 5. The Elk River in Carter County from the Highway 321 Bridge downstream to RM 3.0) Point 11) on the Elk River arm of Watauga Reservoir closed from December 1 through May 31. Cast netting is excluded from this restriction.
 - 6. Snagging prohibited year-round on the South Holston tailwater (from South Holston Dam to the headwaters of Boone Reservoir).
- C. Species which may be taken:
 - 1. Non-game species - no limit. Paddlefish may be harvested (by snagging only) from March 1 through March 15 from Cherokee Reservoir only with a daily creel limit of 1 fish equal to or larger than 30 inches.
- D. Methods Defined:
 - 1. Grabbling: The taking of fishes with the hands.
 - 2. Grab Hooking: The taking of fishes using one or more single, double, or treble hooks fastened directly to a pole or rod in such a manner that they are not separated from pole or rod by a length of line.
 - 3. Snagging: The taking of fishes using one or more single, double, or treble hooks which are manipulated or jerked through the water in such a manner as to impale or hook fishes.
 - 4. Tubbing: The taking of fishes using a tub or like device which has neither top nor bottom.
 - 5. Archery: The taking of fishes using long, recurve, and compound bows using arrows with barbed points; Crossbows are prohibited.
 - 6. Spear-gun fishing: The taking of fishes using a spear-gun.
 - 7. Dipping: Taking of fishes using a dip net.
 - 8. Cast Netting: The taking of fishes by throwing and retrieving a cast net having a maximum radius of 10 feet and with a mesh size (square measure) of not less than one-fourth (1/4") and not greater than one (1) inch.

SECTION XII. SLAT BASKETS

1. A slat basket is defined as a device used for taking non-game fish only. Slat baskets may have only one outside funnel opening, and may be made of wood, plastic, or cane slats which are placed lengthwise and so constructed that there must be a minimum of four (4) openings in the catching area, each being at least 1 1/2" wide and 6" long.
2. Slat baskets as defined above and properly tagged shall be legal in all public waters except TWRA Managed Lakes.
3. Season open year-round.
4. Only non-game fish may be taken. No limit (except that no paddlefish may be harvested).
5. Only one basket tag will be issued to an individual.
6. Possession or use of more than one slat basket is prohibited.

SECTION XIII. TROT LINES, LIMBLINES, AND JUGS

- A. Season open year-round except as noted in Section II. and Section V.
- B. All waters open except as follows:
 1. Sport fishing trotlines, limblines, and jugs prohibited within 1,000 yards below any TVA or Corps of Engineers dam.
 2. Allen Branch Pond, Indian Boundary Lake, and Chilhowee (McKamy Pond) in Cherokee Wildlife Management Area closed to jug fishing and trotlines. Indian Boundary Lake is also closed to limblines.
 3. Trotlines prohibited in the Beech River Watershed Development Authority lakes, in the New Johnsonville Steamplant Harbor, and within 50 yards of the Danville Railroad Bridge dikes.
 4. Bards Lake on Land Between the Lakes closed to trotlines and limblines.
 5. Trotlines, limblines, and jugs prohibited on Norris Reservoir between River Mile 32 (Point 15) and the Highway 25E Bridge on the Powell River Arm and between River Mile 137 (Point 31) and the Highway 25E Bridge on the Clinch River Arm from January 1 through April 30.
- C. Methods Defined:
 1. Trotline: A main line with drop lines to which single hooks are attached and baited in order to catch fish. Such drops must not be closer than 24 inches.
 2. Limblining: The use of one or more hooks on a single line suspended from a tree or shrub limb, or from a pole embedded in or braced on the bank.
 3. Jug Fishing: The use of a hook connected by a length of line to a floating buoy (jug).
- D. All species may be taken except paddlefish.
- E. Creel limit on game fish same as statewide; non-game species - no limit (except that no paddlefish may be harvested).

F. Other Restrictions:

1. Sport fishing trotlines, limblines, and jugs must be tagged and/or marked with the owner's name and address. On trotlines, the tag must be placed on the line within 5 feet of the bank, if the trotline is attached to a bank. On floating trotlines the information shall be marked on the floats. In all other situations, the tag must be placed within 5 feet of either end. On limblines, the tag must be affixed to the line above the water level.
2. Sport fishing trotlines, limblines, and jugs must be run at least once each day.
3. Sport fishermen limited to 50 jugs or blocks each except New Johnsonville Steam Plant Harbor and Bards Lake, where the limit is ten (10) jugs or blocks per sport fisherman and on Beech River Watershed Development Authority Lakes where the limit is twenty (20) jugs or blocks per boat. On Bards Lake, jugs are permitted only from October 1 through March 21.
4. Sport fishing trotlines, limblines, and jugs not fished according to these regulations are subject to be removed by Agency personnel.

SECTION XIV. SHAD TRAWLING

- A. Season: Year-round.
- B. Waters Open - All waters except within 1,000 yards below any dam.
- C. Method Defined: The taking of threadfin or gizzard shad using a trawl having a mesh size no larger than 1 inch, a hoop diameter no larger than 48 inches, and a net length no longer than 72 inches.
- D. Shad collected cannot be sold.

SECTION XV. SPECIAL RESTRICTIONS

- A. Reelfoot Lake. During April and May, the use of gasoline engines to propel boats in selected areas of Reelfoot Lake as posted by TWRA signs is prohibited.
- B. Center Hill Reservoir
 1. On the upper end of Center Hill reservoir including Caney Fork River beginning at Rock Island State Park boat launching ramp and extending upstream to Great Falls Dam, anglers are restricted to the use of one hook having a single point or one lure having no more than one hook with a single point (artificial or bait) during the period from January 1 through April 30. No more than 3 rods and reels or poles may be used.
- C. Dale Hollow Reservoir
 1. Compton boat ramp upstream to Hwy. 52 bridge on the East Fork Obey River arm, anglers are restricted to the use of one hook having a single point or one lure having no more than one hook with a single point (artificial or bait) during the period from January 1 through April 30.
 2. No more than 3 rods and reels or poles per boat angler and 6 rods and reels or poles per bank angler may be used.

SECTION XVI. SPECIAL DEFINITIONS**A. Game Fish:**

The following fish are designated as game fish:

Family - Centrarchidae

All fish in the family Centrarchidae, including those listed below and all hybrids, are designated as game fish.

Largemouth bass	<i>Micropterus salmoides</i> (Lacepede)
Smallmouth bass	<i>Micropterus dolomieu</i> Lacepede
Spotted bass	<i>Micropterus punctulatus</i> (Rafinesque)
Redeye bass	<i>Micropterus coosae</i> Hubbs and Bailey
White crappie	<i>Pomoxis annularis</i>
Black crappie	<i>Pomoxis nigromaculatus</i> (Lesueur)
Rock bass	<i>Ambloplites rupestris</i> (Rafinesque)
Warmouth	<i>Lepomis gulosus</i> (Cuvier)
Bluegill	<i>Lepomis macrochirus</i> Rafinesque
Redear sunfish	<i>Lepomis microlophus</i> (Gunther)
Longear sunfish	<i>Lepomis megalotis</i> (Rafinesque)
Green sunfish	<i>Lepomis cyanellus</i> Rafinesque
Flier	<i>Centrarchus macropterus</i> (Lacepede)
Redbreast sunfish	<i>Lepomis auritus</i> (Linnaeus)
Pumpkinseed	<i>Lepomis gibbosus</i> (Linnaeus)
Orangespotted sunfish	<i>Lepomis humilis</i> (Girard)

Family - Percichthyidae

Striped bass	<i>Morone saxatilis</i> (Walbaum)
Cherokee Bass (Striped bass-White bass hybrid)	<i>Morone</i> sp.
White bass	<i>Morone chrysops</i> (Rafinesque)
Yellow bass	<i>Morone mississippiensis</i> (Jordan and Eigenmann)

Family - Percidae

Walleye	<i>Stizostedion vitreum</i> (Mitchill)
Sauger	<i>Stizostedion canadense</i> (Smith)
Walleye-Sauger hybrid (Saugeye)	<i>Stizostedion</i> sp.
Yellow perch	<i>Perca flavescens</i> (Mitchill)

Family - Esocidae

All fish in the family Esocidae, including those listed below and all hybrids, are designated as game fish.

Muskellunge	<i>Esox masquinongy</i> Mitchill
Northern pike	<i>Esox lucius</i> Linnaeus
Chain pickerel	<i>Esox niger</i> Lesueur
Grass pickerel	<i>Esox americanus</i> Lesueur

Family - Salmonidae

All fish in the family Salmonidae, including those listed below and all hybrids, are designated as game fish.

Rainbow trout	<i>Oncorhynchus mykiss</i>
Brown trout	<i>Salmo trutta</i> Linnaeus
Brook trout	<i>Salvelinus fontinalis</i> (Mitchill)
Lake trout	<i>Salvelinus namaycush</i> (Walbaum)
Ohrid trout	<i>Salmo letnica</i>

- B. Non-Game Species:
All species except those listed as game fish and those proclaimed by the TWRC to be endangered, threatened, or in need of management.
- C. Hooks Defined:
Hooks are defined as follows:
 Single hook - 1 point
 Double hook - 2 points
 Treble hook - 3 points
- D. The use of rods and reels, poles, hand-held lines, and other devices and methods described in this proclamation are the only legal means of sport fishing.
- E. Norris Reservoir:
For purpose of size restrictions on largemouth and smallmouth bass, extends upstream to the Highway 25E Bridge on the Clinch River Arm and upstream to Gap Creek on the Powell River Arm.
- F. Boone Reservoir:
For purpose of size restrictions on largemouth and smallmouth bass, extends upstream to the 11E Bridge at Bluff City on the South Fork Holston River Arm and upstream to the new Austin Springs Bridge on the Watauga River.
- G. Cherokee Reservoir:
For purpose of size restrictions on largemouth and smallmouth bass, shall extend upstream to the John Sevier Dam.
- H. Handicapped - any person who is mentally impaired or physically impaired (including blindness) because of injury or disease, congenital or acquired, which permanently renders him/her so severely disabled as to be unable to move without aid of crutches or a wheelchair, or a person who has 80% permanent impairment of a hand or arm as determined by a physician using the standards outlined in the "Guide to Evaluations of Permanent Rating", published by the AMA or other acceptable rating system.

SECTION XVII. SHOOTING FISH AND TURTLES

Shooting fish and turtles with firearms is prohibited.

SECTION XVIII. SALE OF FISH AND TURTLES

It is illegal to sell or offer for sale fish and turtles taken under authority of this proclamation.

SECTION XIX. REPEAL OF PRIOR PROCLAMATIONS

This proclamation repeals Proclamation 98-27, dated October 29, 1998.

Proclamation 99-22 received and recorded this 14th day of December, 1999. (12-04)

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

PROCLAMATION 99-23 WILD TURKEY HUNTING SEASONS AND BAG LIMITS

Pursuant to the authority granted by Tennessee Codes Annotated Sections 70-4-107 and 70-5-108, the Tennessee Wildlife Resources Commission hereby proclaims the following regulations for wild turkey hunting.

SECTION I. GENERAL REGULATIONS

A. Prohibited Acts

Use of electronic calls or live decoy. Possession of agricultural grain on one's person while turkey hunting. The use of any type of food to feed or attract wild turkeys on WMAs. Shooting or stalking turkeys from a boat in Shelby, Dyer, Tipton, Lauderdale, Haywood or Obion counties. Calling or attempting to call wild turkeys using any call to mimic the sounds made by a wild turkey is prohibited from March 1st to the opening day of the spring turkey hunts on all Wildlife Management Areas. A licensed turkey hunter who has filled his bag limit may accompany another turkey hunter (except on WMAs where prohibited) and assist him in calling, but may not have a gun or bow in his possession.

B. Bag and Possession Limits *

Statewide - One bearded turkey per day, not to exceed three per season, except that no more than two turkeys may be taken in Zone A. (Includes turkeys taken on WMAs listed in Section III. D. below)

Wildlife Management Areas (Except those WMAs listed in Section III. D) One bearded turkey per hunt not to exceed two per season.

- * The total bag and possession limit shall not exceed four bearded turkeys per season on the statewide season and WMAs combined. Turkeys taken on Ft. Campbell and youth-only hunts are bonus birds and do not count toward the total season bag and possession limit.

C. Shooting Hours - Thirty (30) minutes before sunrise to sunset

- D. Checking Stations - All hunters must check in at the area checking station prior to hunting on AEDC, Anderson-Tully, Catoosa, Cheatham, Chuck Swan, Laurel Hill, LBL, Natchez Trace, Prentice Cooper, Reelfoot and Shelby Forest Wildlife Management Areas. Hunters are also required to check out at the conclusion of their hunt. All turkeys harvested on the statewide hunt or on WMAs must be taken by the most reasonably direct route to the nearest county or WMA checking station on the day harvested. The permanent kill tag required for the legal possession will be issued at the checking station.

SECTION II. STATEWIDE TURKEY HUNTING SEASONS AND BAG LIMITS

(Exclusive of WMAs unless listed in Section III.D below)

A. Counties Open - All counties of the state are open and are divided into two zones as follows:

Zone A - Anderson, Benton, Bledsoe, Blount, Bradley, Campbell, *Carter, Carroll, Chester, Claiborne, Clay, Crockett, *Cocke, Cumberland, Decatur, DeKalb, Dyer, Fayette, Fentress, Gibson, Grainger, *Greene, Grundy, Hamblen, Hamilton, Hancock, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Jackson, Jefferson, *Johnson, Knox, Lake, Lauderdale, Loudon, Madison, Marion, McMinn, McNairy, Meigs, Monroe, Morgan, Obion, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sevier, Shelby, Sequatchie, *Sullivan, Tipton, *Unicoi, Union, Van Buren, Warren, *Washington, Weakley, and White.

Zone B - Bedford, Cannon, Cheatham, Coffee, Davidson, Dickson, Franklin, Giles, Hickman, Houston, Humphreys, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Montgomery, Moore, Perry, Robertson, Rutherford, Smith, Stewart, Sumner, Trousdale, Wayne, Williamson, and Wilson.

* Portions of the Cherokee Forest WMA in these counties are open to the statewide seasons and bag limits. (See Section III. D. Below)

- B. Statewide Turkey Season Dates - April 1 through May 9
- C. Special Statewide Youth-Only Hunt* (ages 10 through 16) - May 13, 2000
 * Each youth must be accompanied by a non-hunting adult who is not required to have a license. Bag limit - one bearded bird

SECTION III. WILDLIFE MANAGEMENT AREAS - SEASONS AND MISCELLANEOUS REGULATIONS

- A. Regular Managed Hunts (No Quota) Bag Limit - One bearded turkey per hunt not to exceed two turkeys per year. (See Section I.B.)

AEDC	Four hunts: April 1-3, 8-10, 15-17, 24-26.
Anderson-Tully	One 2-day Youth-Only hunt: April 15-16
Catoosa	Six 3-day hunts: April 7-9, 14-16, 21-23, 25-27, April 28-30, May 2-4.
Cheatham	Four hunts: April 1-3, 15-18, 20-23, April 28-30. One 1-day Youth-Only hunt: April 8.
Ernest Rice	One 2-day Youth-Only hunt: April 15-16
Fall Creek Falls	Two hunts: April 1-5, 6-9. (Archery Only).
Laurel Hill	Four hunts: April 1-3, 7-9, 15-18, 20-23.
LBL	Two 7-day hunts: April 17-23, 24-30 Hunters harvesting a turkey on a LBL quota hunt (Sect. III.B) may not hunt on the April 17-23 hunt.
Moss Island	One 2-day Youth-Only hunt: April 15-16
Prentice Cooper	Six 3-day hunts: April 4-6, 7-9, 11-13, 20-22, 25-27, 28-30.
Shelby Forest	One 1-day Youth-Only hunt: April 15
Williamsport	Two 3-day hunts: April 1-3, 20-22.

- B. Quota Managed Hunts (Quota turkey permit required) Bag Limit - One bearded turkey per hunt not to exceed two per year (See Sect. I.B.)

Anderson-Tully	Two 2-day hunts: April 22-23, 29-30. (50 hunter quota per hunt)
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Chuck Swan	Six 3-day hunts: March 30-April 1, 6-8, 13-15, 20-22, 27-29, May 4-6. (125 hunter quota per hunt). Hunting ends at noon each day. Hunters must be at the check station by 1pm
Ernest Rice	One 2-day hunt: April 22-23. (30 hunter quota)
LBL	One 1-day hunt: April 10 (Hunter quota 350 per hunt) Two 2-day hunts: April 12-13, 15-16
Moss Island	One 2-day hunt: April 22-23. (30 hunter quota)
*Natchez Trace	Three 3-day hunts: April 7-9, 21-23, 28-30. (72 hunter quota per hunt) (36 south of I-40 only and 36 North of I-40 only).
Oak Ridge	Two 2-day hunts: April 8-9, 15-16. Hunting ends at 2pm daily and successful hunters must be at the checking station by 3pm. (150 hunter quota per hunt) Scouting date for permit holders only - March 25th 6am to 6pm.
Reelfoot WMA and Black Bayou Refuge	One 3-day hunt: April 14-16 (35 Hunter quota)
Shelby Forest	One 2-day hunt: April 22-23. (25 hunter quota)
* Hunters must sign in and out each day they hunt on these WMAs	

C. Special Managed Hunts (No Quota)

Cherokee Forest	April 1 - May 9 (Non-quota permit required) All portions south of Great Smoky Mtns National Park are open. Bag limit - one bearded turkey per day not to exceed 2 per season. Turkey counts in WMA bag limit. May 13, 2000 - Youth-only (age 10 through 16) hunt to coincide with the statewide youth hunt. Bag limit is one bearded bird and counts as a statewide bird.
Foothills	Same season and bag limits as south portion Cherokee Forest WMA

D. Wildlife Management Areas Open With Statewide Seasons and Bag Limits:

Alpine Mtn., Barkley (Units I and II), Bean Switch Refuge, Big Sandy, (including Gin Creek), Bridgestone/Firestone, Camden (Units I and II), Cedar Hill Swamp, Chickamauga, Chickasaw, Chilhowee Mtn., Cheatham Lake, Cordell Hull, Cordell Hull Refuge, Cove Creek, Cumberland Springs, Doe Mtn., Duck River, Eagle Creek, Edgar Evins State Park, Flintville Hatchery, Gooch, Harmon's Creek, Haynes Bottom, Hop-in Refuge, Jarrell Switch, Jackson Swamp, Lick Creek, Maness Swamp Refuge, MTSU, Mt. Roosevelt, New Hope, Normandy, Obion River, Old Hickory (including Lock 5 Refuge), Pea Ridge, Percy Priest Unit II, Pickett, Royal Blue, Standing Stone, West Sandy, Tellico Lake (except McGhee-Carson and Niles Ferry Units), Watts Bar, White Oak, and portions of the Cherokee Forest WMA listed in Section II (above) are open to coincide with the statewide season and bag limit.

SECTION IV. NATIONAL WILDLIFE REFUGE HUNTS - FEDERAL PERMIT REQUIRED BAG LIMIT - ONE BEARDED TURKEY PER SEASON. ALL BIRDS COUNT IN WMA BAG LIMIT UNLESS OTHERWISE NOTED.

Upper Hatchie NWR	One 10-day hunt: April 14-23
Tennessee NWR and Cross Creeks NWR	April 1 - May 9. May 13th - a Youth-only (age 10 through 16) hunt to Coincide with the statewide youth hunt and bag limit.
Reelfoot NWR	Open to coincide with hunt on Reelfoot WMA (as listed in Section III.B. above). Hunter quota- Grassy Lake - 25, Long Point - 25.

SECTION IV. REPEAL OF PRIOR PROCLAMATIONS

This proclamation repeals Proclamation 98-28 dated Oct. 28, 1998, Proclamation 99-4 dated Jan. 14, 1999 and Proclamation 99-5 dated Feb. 25, 1999.

Proclamation No. 99-23 received and recorded this 14th day of December, 1999. (12-01)

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

PROCLAMATION 99-24

**STATEWIDE PROCLAMATION ON THE
COMMERCIAL TAKING OF FISH AND TURTLES**

Pursuant to the authority granted by *Title 70, Tennessee Code Annotated, and Sections 70-1-206, 70-2-205, 70-4-107, and 70-4-119* thereof, the Tennessee Wildlife Resources Commission hereby proclaims the following regulations pertaining to the commercial taking of fish and turtles, hereinafter called commercial fishing.

Commercial fishing is hereby authorized in accordance with the following provisions, except where expressly forbidden by law. All commercial fishing gear must meet the specifications and be fished in the manner provided for in Sections I, II, III, IV, and V of this proclamation.

SECTION I. WATERS OPEN TO COMMERCIAL FISHING

For purposes of this proclamation, "river" means that body of water confined within the identifiable banks. At high river stage, oxbows, sloughs, and backwaters accessible by boat from the river are open to commercial fishing, but are considered private water and may be fished only with permission of the landowner.

RIVERS

The following are open year-round to trotlines, hoop nets, fyke nets, pound nets, trap nets, gill nets, trammel nets, slat baskets, cast nets and turtle traps unless otherwise specified.

1. CLINCH RIVER - fishing authorized only downstream from Melton Hill Dam. Gill and trammel nets prohibited.

2. EMORY RIVER - fishing authorized only downstream from the Harriman Bridge. Gill and trammel nets prohibited.
3. FORKED DEER RIVER - except that portion of the Middle Fork lying within the boundaries of the Chickasaw National Wildlife Refuge.
4. FRENCH BROAD RIVER
5. HATCHIE RIVER
6. HIWASSEE RIVER - fishing authorized only downstream from U.S. 11 Bridge (Charleston).
7. HOLSTON RIVER
8. LOOSA HATCHIE RIVER - fishing authorized only downstream from the New Raleigh-Millington Road Bridge.
9. MISSISSIPPI RIVER - (except that portion from the Mississippi-Tennessee line upstream to Mississippi River Mile 745, marked by the upper, or northern, tip of Hickman Bar, which is closed. This closure includes McKellar Lake and Wolf River embayment). Wardlow's Pocket and Wardlow's Pocket Chute (except those portions lying within the boundaries of the Chickasaw National Wildlife Refuge), Heathright Pocket, Cold Creek, Cold Creek Chute, lying within the boundaries of Anderson Tully WMA in Lauderdale County are open; all other ponds, lakes, arms, sloughs, bayous, and pockets within the WMA are closed.
10. NOLICHUCKY RIVER
11. OBION RIVER
12. WOLF RIVER - Only the section from Germantown Bridge upstream is open to commercial fishing. Gill nets and trammel nets are prohibited. The section upstream of Bateman Bridge in Fayette County is open for trotlines only.
13. CUMBERLAND RIVER - As listed in Section I. RESERVOIRS except from Cordell Hull Dam upstream is closed.
14. TENNESSEE RIVER - As listed in Section I. RESERVOIRS.
15. DUCK RIVER - That portion of the Duck River from its confluence with Blue Creek at approximate DRM 13.2 downstream to the Hustburg pipeline crossing is open year-round to trotlines, hoop nets, and slat baskets. The Duck River from DRM 4.0 downstream to the Hustburg pipeline crossing at approximate DRM 1.4 is open to gill nets and trammel nets from December 1 through January 15. The rest of Duck River downstream is open year-round to all legal commercial gear types. Duck River upstream from its confluence with Blue Creek is closed to all commercial fishing.

RESERVOIRS

Group A: The following reservoirs are open year-round unless otherwise specified to trotlines, hoop nets, fyke nets, pound nets, trap nets, gill nets, trammel nets, slat baskets, cast nets and turtle traps.

1. CHEATHAM
2. CHICKAMAUGA
3. DOUGLAS - Entanglement gear (gill and trammel nets) and hoop nets are prohibited above Point 14 from January

through June. Entanglement gear (gill and trammel nets) is prohibited from the mouth to the headwaters of Indian, McGuire, Muddy and Flat Creeks from October through February.

4. GUNTERSVILLE - the taking and possessing of paddlefish is prohibited year-round.
5. NICKAJACK
6. PICKWICK
7. JOHN SEVIER
8. DAVY CROCKETT (Greene County)

Group B: The following reservoirs are open year-round except for specific restrictions as listed:

1. BARKLEY - all commercial fishing gear except; slat baskets and trotlines are prohibited in all creeks from 4 a.m. to 9 p.m. during the months of April and May; all commercial fishing gear is permitted in all creeks from 9 p.m. to 4 a.m. daily during the months of April and May, except that whip sets (the driving of fish into trammel nets and gill nets by the use of noise and disturbing the water) are not permitted in any creeks which have operating commercial docks. Gill and trammel nets are prohibited from the Highway 13 Bridge (CRM 129.9) upstream to Cheatham Dam (CRM 148.7) from February 16 through April 15 except that their use during this period is permitted from the Highway 13 Bridge (CRM 129.9) upstream to, but not including, Barton's Creek (approximate CRM 144.4) - flooded fields adjacent to the Barton's Creek channel are open with landowner permission - under the following provisions:
 - (a) The use or possession of gill and/or trammel nets having a mesh size larger than 4 inches or less than 3 inches and/or a depth exceeding 8 feet (float line to lead line) is prohibited.
 - (b) Commercial fishermen using nets in this area during this time period must have on their person a data form provided by TWRA, Fish Management Division, Nashville Office. Such data forms will be issued upon receiving a written request from the commercial fishermen giving their name, address, license number, and phone number.
 - (c) Commercial fishermen are required to fill out the data forms completely and accurately and return them to TWRA by the indicated time.
 - (d) Prior to fishing in this area and time period, commercial fishermen must call TWRA at their Region II Toll Free Number (1+800+255-8972) between 7:00 a.m. to midnight (local time) and provide TWRA with their name, date they intend to fish, access area they will use, and the approximate location where they will set their nets. If for whatever reason a commercial fisherman does not plan to fish at the scheduled time and place, he or she must previously notify TWRA to that effect.
2. CHEROKEE - trammel nets and gill nets are prohibited. The taking and possession of blue catfish by commercial fishing methods is prohibited.
3. KENTUCKY - commercial fishing gear and sport fishing trotlines are prohibited in the New Johnsonville Steamplant Harbor and within 50 yards of the Danville Railroad Bridge dikes (approximate TRM 78.3).

The Duck River embayment from DRM 4.0 upstream to its confluence with Blue Creek at approximate DRM 13.2 is closed year-round to all commercial fishing gear types except trotlines, hoop nets, and slat baskets. The Duck River embayment from the Hustburg pipeline crossing at approximate DRM 1.4 upstream to DRM 4.0 is closed to commer-

cial fishing with gill nets and trammel nets except from December 1 through January 15 each year.

Unattended entanglement type commercial fishing gear is prohibited from November 25 through March 15 in waters of the U.S. Fish and Wildlife Service Refuge located within the Big Sandy River Embayment and in all of the waters of the West Sandy Creek Arm of the Big Sandy River Embayment.

All commercial fishing gear except slat baskets and trotlines is prohibited in all creeks from 4 a.m. to 9 p.m. during the months of April and May; all commercial fishing gear is permitted in all creeks from 9 p.m. to 4 a.m. daily during the months of April and May, except that whip sets (the driving of fish into trammel and gill nets by the use of noise and disturbing the water) are not permitted in any creeks which have operating commercial docks.

4. REELFOOT

- (a) Commercial fishing for crappie is restricted to November 1 through February 28 annually and is permitted only under contract with the Tennessee Wildlife Resources Agency.
- (b) The taking of grass carp (*C. idella*) is prohibited.
- (c) Trammel, gill, hoop, and fyke nets are prohibited from November 1 through February 28 and April 15 through June 15 annually, except as provided in (a) above.

5. WATTS BAR - trammel and gill nets are prohibited.

6. OLDHICKORY

- (a) Trammel and gill nets are prohibited from Highway 231 upstream to Cordell Hull Dam and including the Caney Fork River.
- (b) Trammel and gill nets are prohibited from Highway 109 upstream to 231 except fishing of legal entanglement nets by whipset or trammeling method are permitted by contract with the Tennessee Wildlife Resources Agency.

7. FORT LOUDOUN - the possession of all species of catfish taken by commercial methods from Fort Loudoun Dam upstream to the confluence of the French Broad and Holston rivers is prohibited.

SECTION II. LICENSE REQUIREMENT

A commercial fishing license is required by anyone engaging in or assisting anyone engaging in commercial fishing. Commercial fishermen must obtain a free Paddlefish Permit from TWRA prior to harvesting paddlefish from the waters of the State. A free Paddlefish Permit may be obtained by written request. Sequentially numbered tags, which must be secured to harvested paddlefish, will be issued to Paddlefish Permit holders. Commercial fishermen must obtain a free Turtle Permit from TWRA to harvest turtles from the waters of the State.

SECTION III. GENERAL PROVISIONS

- A. Fish and turtles classified as endangered, threatened, or in need of management as proclaimed by the Wildlife Resources Commission may not be taken.

- B. The following fish species may be taken and sold commercially year-round unless otherwise restricted by this proclamation, other Tennessee Wildlife Resources Commission proclamations or rules, or Tennessee Code Annotated. Paddlefish and sturgeon or parts thereof shall not be taken during the period from April 24 through October 31, nor shall they be possessed during these periods unless they were previously taken during a legal taking season. Those persons possessing paddlefish or sturgeon or parts thereof during the periods from April 24 through October 31 must have in their possession bills of lading denoting pounds of flesh or eggs (or both if applicable) in their possession, name and address of supplier/fishermen, and date of harvest or date obtained. Paddlefish must be 30 inches, eye to fork length, to be legal for harvest. In addition, both white and black crappie may be taken and sold commercially from Reelfoot Lake in accordance with regulations proclaimed by the Wildlife Resources Commission.

<u>Common Name</u>	<u>Scientific Name</u>
Shovelnose sturgeon	<i>Scaphirhynchus platyrhynchus</i> (Rafinesque)
Paddlefish	<i>Polyodon spathula</i> (Walbaum)
Spotted gar	<i>Lepisosteus oculatus</i> (Winchell)
Longnose gar	<i>Lepisosteus osseus</i> (Linnaeus)
Shortnose gar	<i>Lepisosteus platostomus</i> Rafinesque
Bowfin	<i>Amia calva</i> Linnaeus
Skipjack herring	<i>Alosa chrysochloris</i> (Rafinesque)
Gizzard shad	<i>Dorosoma cepedianum</i> (Lesueur)
Threadfin shad	<i>Dorosoma petenense</i> (Guenther)
Grass carp	<i>Ctenopharyngodon idella</i> (Valenciennes)
Common carp	<i>Cyprinus carpio</i> Linnaeus
Silver carp	<i>Hypophthalmichthys molitrix</i> (Valenciennes)
Bighead carp	<i>Hypophthalmichthys nobilis</i> (Richardson)
River carpsucker	<i>Carpiodes carpio</i> (Rafinesque)
Quillback	<i>Carpiodes cyprinus</i> (Lesueur)
White sucker	<i>Catostomus commersoni</i> (Lacepede)
Smallmouth buffalo	<i>Ictiobus bubalus</i> (Rafinesque)
Bigmouth buffalo	<i>Ictiobus cyprinellus</i> (Valenciennes)
Black buffalo	<i>Ictiobus niger</i> (Rafinesque)
Spotted sucker	<i>Minytrema melanops</i> (Rafinesque)
Silver redhorse	<i>Moxostoma anisurum</i> (Rafinesque)
Black redhorse	<i>Moxostoma duquesnei</i> (Lesueur)
Golden redhorse	<i>Moxostoma erythrurum</i> (Rafinesque)
Black bullhead	<i>Ameiurus melas</i> (Rafinesque)
Yellow bullhead	<i>Ameiurus natalis</i> (Lesueur)
Brown bullhead	<i>Ameiurus nebulosus</i> (Lesueur)
* Blue catfish	<i>Ictalurus furcatus</i> (Lesueur)
Channel catfish	<i>Ictalurus punctatus</i> (Rafinesque)
Flathead catfish	<i>Pylodictis olivaris</i> (Rafinesque)
Freshwater drum	<i>Aplodinotus grunniens</i> Rafinesque
Yellow bass	<i>Morone mississippiensis</i> Jordan, Eigenmann
**White crappie	<i>Pomoxis annularis</i> Rafinesque
**Black crappie	<i>Pomoxis nigromaculatus</i> (Lesueur)

** Harvest prohibited except from Reelfoot Lake under contract with TWRA.

* The taking and possession of blue catfish from Cherokee Reservoir by commercial fishing methods is prohibited.

- C. Only the Common Snapping Turtle, *Chelydra serpentina serpentina*, with a carapace (upper shell) length of at least twelve inches, measured front to back, may be taken year-round and statewide without limit by any legal commercial fishing method.
- D. Only at Reelfoot Wildlife Management Area, all sizes and species of turtles except the box turtles and those covered in Item A. above may be taken by any legal commercial fishing method.
- E. Commercial fishing gear is prohibited within 1,000 yards downstream of any TVA or Corps of Engineers Dam, within 300 yards of any commercial boat dock or resort, or within 100 yards of the mouth of any stream, river, or inlet at any time. For purposes of this proclamation, wingwalls and lock walls are considered to be a part of the "dam", and measurements will be made from their downstream end.
- F. No catfish less than 8 inches in length may be kept alive.
- G. Gill nets, trammel nets, turtle traps, and trotlines must be run at least once every 24 hour period. Other types of commercial fishing gear must be run at least once every 72 hour period.
- H. Hoop nets, fyke nets, trap nets, and pound nets with a mesh size of one (1) inch or smaller on the square may be fished only during the months of October, November, December, January, February, March, and April, except Reelfoot Lake which has special regulations, and the Mississippi River, which is open year-round.
- I. A fish seine may be used in private waters and in waters which are replenished by overflows from the Mississippi, Tennessee, Obion, Hatchie, Wolf, Loosahatchie, and Forked Deer rivers, but which during the dry season of the year have no outlet to these rivers. Fish seines as defined in this proclamation may be used in the dewatering areas of Kentucky Reservoir.
- J. No commercial fishing gear shall be set so as to extend more than three-quarters (3/4) across any stream, river, chute, or embayment.
- K. Prior to sale to an in-state wholesale fish dealer or prior to being marketed out-of-state, paddlefish carcasses may not be altered in such a manner that the length of the fish may not be determined (gutted only).
- L. Commercially harvested paddlefish or parts thereof taken from the waters of the state and sold in-state must be marketed to a licensed wholesale fish dealer.

SECTION IV COMMERCIAL FISHING GEAR

Legal gear types are trotlines, slat baskets, hoop nets, fyke nets, pound nets, trap nets, trammel nets, seines, turtle traps, and cast nets.

- 1. Slat Basket
A slat basket is defined as a device used for taking of commercial fish only. Slat baskets may have only one outside funnel opening, and may be made of wood, plastic, or cane slats or splits which are placed lengthwise and so constructed that there must be a minimum of four openings in the catching area, each being at least 1½" wide and 6" long.
- 2. Hoop Net
A barrel shaped net made of synthetic cotton, linen, or nylon, and supported by hoops. A hoop net is also known as a barrel net, set net, funnel net, and trap net. One or more throats are attached inside the hoop structure. Legal mesh size of hoop nets is one (1) inch or smaller or three (3) inches or larger on the square. See Section III. for special restriction on 1" or smaller sizes.

3. Fyke Net, Trap Net and Pound Net

A fyke net, also known as a wing net, is a hoop net to which as many as three (3) wings or leads may be attached. Trap nets or pound nets which have rectangular or box shaped traps shall also be legal by this definition. The wings or leads are equipped with floats and sinkers, and the webbing of the wings shall be constructed of twine not smaller than Number 7 in nylon or Number 9 in cotton or linen. The maximum length of each wing is 50 feet. The legal mesh size of fyke nets and wings or leads is one (1) inch or smaller or three (3) inches or larger on the square. See Section III. for restriction on 1" or smaller sizes.

4. Trammel Net

A trammel net is defined as a net having three (3) webs (nets) hung to a single top (float) and bottom (lead) line. The two outside webs are called walling, and the inside web is called webbing. The inside webbing shall have a mesh size of not less than three (3) inches on the square and the outside walling shall have a mesh size of not less than four (4) inches on the square. The maximum mesh size of the outside walling shall consist of vertical ties or hobbles on each side of the webbing at six (6) foot intervals along the float and lead line. A net may not be hobbled to less than two thirds the height of the net. Maximum length of a trammel net is three hundred (300) yards. Trammel nets must be fished in a stationary manner except in the Mississippi River.

5. Gill Net

A gill net is defined as a single net attached to float and lead lines with a minimum mesh size of three (3) inches on the square. The maximum length of a gill net is three hundred (300) yards. Gill nets must be fished in a stationary manner except in the Mississippi River.

6. Fish Seine

A fish seine consists of a float and lead line to which netting is attached. The netting of the seine shall be constructed of twine not smaller than Number 7 nylon or synthetic fiber or Number 9 cotton or linen. The mesh size of seines shall be three (3) inches or larger on the square. Seines must be constantly attended, and may not be fished in a stationary manner.

7. Turtle Traps

A turtle trap is defined as a trap made of linen or cotton netting, wood or cane slats or strips, wire, or other similar materials with a minimum mesh size of three (3) inches on the square. Such traps must be constructed in a way as to permit the escape of fish through the three (3) inch openings. Turtle traps as defined herein may only be used in waters open to commercial fishing. Turtle traps must be set so that a portion of the catching area is positioned above the water.

8. Cast Net

A cast net is defined as a net having a maximum radius of ten (10) feet and a mesh size (square measure) of not less than one-fourth ($\frac{1}{4}$) inch and not greater than one (1) inch.

9. Trotline

A main line with drop lines to which single hooks are attached and baited in order to catch fish. Such drops must be at least 24 inches apart.

10. Dip Net

A dip net is a net constructed from natural or synthetic fibers which is attached to a frame that is attached to a pole. A dip net may only be used to commercially harvest turtles from Reelfoot Wildlife Management Area.

SECTION V. REPORT REQUIREMENTS

Commercial fishermen and wholesale fish dealers are required to submit reports to the Tennessee Wildlife Resources Agency on forms provided. Commercial fishermen harvesting paddlefish or parts thereof from the state's waters must tag paddlefish as instructed by TWRA and provide requested information and samples to TWRA. All Paddlefish Permit holders must submit a monthly report to TWRA indicating the amount of paddlefish or parts thereof, including eggs (both if applicable) they have in their possession, amount sold and amount transferred or lost. Tags must remain on the paddlefish until the fish is in the final stage of processing. Commercial fishermen marketing out-of-state must provide TWRA with requested information on forms provided by TWRA as per the monthly reporting requirement. Commercial fishermen harvesting turtles or parts thereof from the state's waters must provide requested information to TWRA.

Wholesale fish dealers, private individuals, and businesses importing paddlefish or parts thereof into Tennessee must have bills of lading denoting pounds of flesh or eggs (both if applicable), name and address of supplier, and date of import. Wholesale fish dealers, private individuals, and businesses importing or purchasing paddlefish and/or eggs for commercial purposes must provide requested information, updated monthly, and samples to TWRA. Wholesale fish dealers purchasing turtles or parts thereof must provide requested information to TWRA.

Wholesale fish dealers will maintain records available for audit of sales of paddlefish and sturgeon. These records will contain the quantity of fish or eggs sold and the buyer's address, including city, state, and country.

SECTION VI. REPEAL OF PRIOR PROCLAMATIONS

This proclamation repeals Proclamation 99-1, dated January 14, 1999, as amended by Proclamation 99-7, dated April 1, 1999. Proclamation 99-24 will be effective March 1, 2000.

Proclamation 99-24 received and recorded this 14th day of December, 1999. (12-03)



CERTIFICATE OF APPROVAL

As provided by T.C.A., Title 4, Chapter 5, I hereby certify that to the best of my knowledge, this issue of the Tennessee Administrative Register contains all documents required to be published that were filed with the Department of State in the period beginning December 1, 1999 and ending December 30, 1999.


WILEY C. DARNELL
Secretary of State

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